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APPENDIX

IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 76-1151

UNITED STATES OF AMERICA,

Petitioner

—*v.*—

RALPH CECCOLINI

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 19, 1977
CERTIORARI GRANTED MAY 2, 1977

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—v.—

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INDEX[1]

	Page
Relevant Docket Entries	1
Indictment	3
Respondent's Testimony Before the Grand Jury	13
Excerpts from the Trial Transcript	21
Order Granting Certiorari	84

[1] The opinion of the court of appeals may be found in Petitioner's Appendix A, 1a-20a.

The judgment of the court of appeals may be found in Petitioner's Appendix B, 21a.

The order of the court of appeals denying rehearing *en banc* may be found in Petitioner's Appendix C, 23a.

The opinion of the district court may be found in Petitioner's Appendix D, 25a-37a.

RELEVANT DOCKET ENTRIES

Date	PROCEEDINGS
6-2-75	Filed indictment and ordered sealed. B/W ordered. Gagliardi, J. B/W issued.
6-3-75	Indictment ordered unsealed. Gagliardi, J.
6-16-75	Deft. (atty. present) Pleads not guilty. Deft. continued released on $5,000. P.R.B. Case assigned to Judge Gagliardi for all purposes. Gagliardi, J.
07-23-75	Filed magistrate's orig. papers: docket entry sheet, indictment warrant, disposition sheet & appearance bond.
07-30-75	Filed deft.'s motion re: copy inspection, etc.
9-30-75	Filed Govt.'s affdvt. re: response to motion for discovery and b/p.
10-14-75	Deft.'s motion for a non-jury trial and a general verdict. Granted. Waiver signed this date. Non-jury trial begun before Judge Gagliardi.
10-15-75	Trial cont'd.
10-16-75	Trial cont'd.
10-17-75	Trial cont'd. and concluded-decision reserved. Deft. cont'd. on present bail until date of decision. Gagliardi, J.
10-15-75	Filed deft's waiver of trial by jury. Gagliardi, J.
02-13-76	Filed Govt.'s memo of law re: support assertion that the testimony of L. Hennessey is sufficiently attenuated from the primary illegality of Patrolman Ronald Biro's search on 12-18-74.
02-13-76	Filed Govt.'s memo. of law.
02-10-76	Court finds deft. guilty on count I, not guilty verdict on count 2 Count I is set aside. Bail exonerated. Gagliardi, J.

02-19-76 Filed Govt.'s notice of appeal from decisions of Judge Gagliardi setting aside verdict on count 1. Mailed copies.

03-01-76 Filed notice that the record on appeal has been certified and transmitted to the U.S.C.A.

03-23-76 Filed notice that the suppl. record on appeal has been certified and transmitted to the U.S.C.A.

03-23-76 Filed transcript of record of proceedings, dated 10-14 thru 17-75.

04-07-76 Filed Opinion #44188—deft. Ceccolini's motion to modify this Court's decision of 2-10-75 etc. Denied. Gagliardi, J. m/n

5-5-76 [Illegible] 2-10-76.

06-24-76 Filed notice that the suppl. record on appeal has been certified and transmitted to the U.S.C.A.

07-28-76 Filed Govt's Memorandum Of Law in support of the Govt's contention that the deft. did not have to be advised of his Sixth Amendment Right, etc.

01-28-77 Filed true copy of order of the U.S.C.A. that the judgment of the District Court is affirmed in accordance with the opinion of this Court. Clerk Judgment entered 1-31-77 mn

UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF NEW YORK

75 Crim. 519

[Filed June 2, 1975, U.S. District Court, S.D. of N.Y.]

UNITED STATES OF AMERICA

—*v.*—

RALPH CECCOLINI, DEFENDANT

INDICTMENT

COUNTS ONE AND TWO

The Grand Jury Charges:

1. On or about May 12, 1975, in the Southern District of New York, RALPH CECCOLINI, the defendant, having duly taken an oath as a witness that he would testify truthfully in a proceeding before a Grand Jury of the United States duly empaneled and sworn in the United States District Court for the Southern District of New York, and inquiring for that District into violations of federal law, unlawfully, wilfully and knowingly and contrary to said oath did make false material declarations as hereinafter set forth.

2. At the time and place aforesaid, the said Grand Jury was conducting an investigation into possible violations of United States laws prohibiting the conducting, financing, managing, supervising and directing of an illegal gambling business in violation of Title 18, United States Code, Section 1955 and conspiring to do so in violation of Title 18, United States Code, Section 371.

3. It was material to said inquiry that the Grand Jury ascertain information concerning: the extent of the defendant RALPH CECCOLINI's knowledge of, and participation in, an unlawful policy, horse, and sports gambling operation in and around North Tarrytown, Yonkers, the upper Bronx, Hastings-on-Hudson, Tuckahoe, Eastchester, and lower New Rochelle; whether the

defendant, RALPH CECCOLINI, was participating in the aforesaid gambling operation by regularly accepting and collecting policy wagers from individual bettors and transferring them to Joseph Millow at the Sleepy Hollow Flower Shop, 52 Beekman Avenue, North Tarrytown, New York; and whether the defendant, RALPH CECCOLINI, was participating in the aforesaid gambling operation by accepting and collecting football and baseball wager from individual bettors and transferring them to Hank Bucci at the Sleepy Hollow Flower Shop, 52 Beekman Avenue, North Tarrytown, New York.

4. At the time and place aforesaid, the defendant RALPH CECCOLINI, appearing as a witness under oath in a proceeding before said Grand Jury, did testify falsely with respect to the aforesaid material matters and did make the following false material declarations:

(COUNT ONE)

"Q Do you know a man by the name of Frank Millo?
A Yes, I do. I don't know him as Frank. I know him as Joseph.
Q Does Mr. Millo come into your flower shop often?
A Yes, he does.
Q For what purpose?
A Well, he comes in the store, I would say, every morning.
Q Every morning?
A Right.
Q At what time?
A Ten o'clock. Between 10:00 and 11:00, I would say.
Q Does he buy flowers every morning at 10:00 o'clock?
A No.
Q Has he ever bought flowers from you?
A Yes, he has.
Q How frequently?
A Not every day.
Q For what purpose does he come into your flower shop at 10:00 o'clock?

A Well,—how should I put it—
[3] Q Would it help you if I said that the purpose for Frank Millo coming into your flower shop is to pick up policy work?
A No.
Q That's not the purpose?
A No, it isn't.
Q What's the purpose?
A I gave him a few bets, I would say probably about three, since I know him. I have known him all his life. I know his family.
Q You bet, you bet with Mr. Millo?
A I have. I would say about three times.
Q Policy bets or horse bets?
A No, numbers.
Q Policy bets?
A Yes.
Q Three times, you said?
A Yes, I would say about three times.
Q No more than three times?
A No. I would think so.
Q In what amounts, do you recall?
A I think a dollar.
Q Did you give the money directly to him when you were making the bets.
A Yes, I did.
Q Does he make a notation on a pad?
A Yes, I think he did.
Q Have you seen that?
A No, but I know that he makes notations. They can't keep it in their head. I haven't seen that.
Q You stated that Mr. Millo comes into your flower shop every day at 10:00 o'clock.
A Between 10:00 and 11:00.
[4] Q And yet you've only placed bets with him yourself at 11:00 on three occasions?
A Right.
Q When were these three occasions?
A I don't remember.
Q In the last month?
A No.

Q Within the last two months?
A I would say before I read about it in the paper, and then I have a fiancee that doesn't like me to gamble, so I stopped.
Q Before you read about Mr. Millo's arrest in the newspaper, is that correct?
A Yes.
Q Why else would he come into your flower shop?
A I have known him all my life.
Q He just comes in to talk to you?
A Talk, sure.
Q On a regular basis at 10:00 to 11:00?
A I seen him today three times before I came here, and my store is closed. I happened to be on Beekman Avenue where I live, and I seen him, and I talked to him.
Q He comes back to talk to you every day?
A I would say.

• • • •

Q You've never left policy work in an envelope for Mr. Millo?
A No, I haven't.
Q You've never left policy work in an envelope with one of the girls with instructions to give it to Mr. Millo?
A Not that I remember, Sir.
[5] Q Directing your attention to December, 1974, have you ever left policy work in an envelope and directed your girl to give it to Mr. Millo?
A To my girlfriend?
Q To a girl working in your store?
A No.
Q Never?
A Not that I remember.
Q Would you remember something like that if you had done it?
A Oh, yes, but I just don't remember, really.
Q Have you ever left policy work on the counter of your store for Mr. Millo?
A No.

Q Have you ever left gambling work on the counter of your store for Mr. Millo?
A No.
Q Have you ever given any type of gambling work in an envelope to Mr. Millo at your store?
A Never happened.
Q That never occurred?
A No.

• • • •

Q Have you ever taken policy bets yourself?
A No, I haven't.
Q Never?
A No.

• • • •

Q Mr. Ceccolini, you stated that Joe Millo comes into your flower shop at ten to eleven every day, right?
A I would say every day. He might miss a day or two, but I would say every day.
Q On the week days or on the week ends as well, every day that it's open?
[6] A Yes, every day that it's open, I would say. I mean, I didn't see him yesterday at all. I don't think I seen him Saturday.
Q But generally he comes in at least—
A He does.
Q —for example, five times a week?
A I would say.
Q Either from ten to eleven or ten to 10:30?
A Yes, I would say.
Q How long has this been going on, years?
A I would say so. I mean, a couple of years, at least.
Q A couple of years this has been going on?
A Yes.
Q And you've stated that the only purpose of those meetings is for him just to say hello?
A Well, to come in and say what's new, talk to me, what's new.
Q He never discusses his gambling business with you?
A No, not at all.

Q And he never picks up policy work from you?
A Not at all.
Q Has he ever come in any other time besides ten to 10:30, into your flower shop?
A I was working the other day for Mother's Day, I think. It was 9:00 o'clock, he stopped by and said hello, and asked if I wanted coffee.
Q Generally it's in that particular time period?
A Right.
Q And this has been going on for two years?
A A year and a half, two years, maybe three years."

• • • •

[7] Q Don't you find it odd that he is stopping in at particular times?
A No, I don't.
Q Five days a week?
A I can name you fifty other people that come into my store every day for ten minutes.
Q For what purpose?
A To say hello, to talk to me. I'll give you the names. You want them?
Q No, I don't think we are interested in them. Are these individuals passing policy work to you?
A No.
Q Are these individuals passing policy work to you?
A No.
Q Are they placing bets with you?
A No, they are not. And a lot of them are young school kids that come into the place to say hello every noontime, 7, 8, 10 of them.
MR. ABZUG: Thank you, Mr. Ceccolini.

COUNT TWO

"Q Do you know a man by the name of Hank Bucci?
A Sure. Yes, sir, I do.
Q Do you know that Hank Bucci is working in a gambling operation at this time?
A I read the paper. I know he's been locked up a few time.
Q Apart from reading the papers, have you heard Mr. Bucci is currently operating a gambling operation?

A Have I heard that he is operating a gambling operation?
Q Yes.
A No.
Q Do you know that he is?
A No, I don't.
[8] Q Just apart from what you read in the papers, you have no knowledge that he's working in a gambling operation?
A Right.
Q Do you know what he does for a living?
A I seen a sign, and I seen him standing in front of a garage selling old furniture, and stuff like that, on Beekman Avenue, in another part of town.
Q Has anybody else ever come into your flower shop for the purpose of taking bets from you, apart from Mr. Joe Millo?
A No. Can I say something, sir?
Q What would you like to say?
A I just want to say something. You asked me questions about people knowing about things that other people do. In Tarrytown there's 4,000 people, and you can't breathe unless somebody knows what's going on.
Q You state that you know certain things. The Grand Jury wants to know how you know it.
A Oh, oh, I see.
Q So it doesn't do us any good when you say, I know something and I don't know how I know it.
A I've heard that Mr. Hank Bucci used to be in the business. I heard it in a restaurant. I couldn't tell you who told me, because I can't even remember.
Q Nobody else has come into your flower shop and taken bets from you?
A No."

5. The testimony of the defendant, RALPH CECCOLINI, set forth for the above (Counts One and Two), was, as he then and there well knew, untrue.

(Title 18, United States Code, Section 1623)

/s/ Paul J. Curran
PAUL J. CURRAN
United States Attorney

/s/ Margaret M. King
MARGARET M. KING
Forelady

Feb. 10, 1976—Court finds the deft. Guilty on count 1 and not guilty on count 2. The guilty verdict on count 1 is set aside. Bail exonerated.

Gagliardi, J.

75 Crim. 1519

[Filed June 2, 1975, U.S. District Court, S.D. of N.Y.]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA

vs.

RALPH CECCOLINI, DEFENDANT

INDICTMENT

75 Cr.

PAUL J. CURRAN *United States Attorney*

A TRUE BILL

/s/ Margaret M. King
MARGARET M. KING
Foreman

JUDGE GAGILARDI

Date	PROCEEDINGS
6-2-75	Indictment Ordered filed. Issuance/Bench Warrant Ordered. Gagilardi, J.
6-3-75	Indictment Ordered unsealed. Gagliardi, J.—MR
6/16/75	Deft (atty. Joseph De Salvo) present. Pleads *not* guilty. Assigned *Gagliardi, J.* for all purposes. Deft. continued release on $5000. PRB. Gagliardi, J.
Oct. 14, 1975	Deft's motion for a non-jury trial and a general verdict—*GRANTED*—Waiver signed this date —Before Gagliardi, J., non-jury trial begun.

Oct. 15, 1975 Trial continued

Oct. 16, 1975 Trial continued

Oct. 17, 1975 Trial continued and concluded—*DECISION RESERVED.* Deft cont'd on present bail until date of decision. *Gagliardi, J.*

TESTIMONY OF RESPONDENT BEFORE THE GRAND JURY

[38] RALPH CECCOLINI, called as a witness, having been duly sworn by the Forelady of the Grand Jury, testified as follows:

BY MR. ABZUG:

Q State and spell your name, please.
A C-e-c-c-o-l-i-n-i.
Q First name?
A Ralph.
Q And that's pronounced Ceccolini?
A Ceccolini, Ceccolini.
Q Where do you live, Mr. Ceccolini?
A 95 Beekman Avenue, North Tarrytown.
Q When were you born?
A May 19th, 19731.
Q Are you married?
A Divorced.
Q Any children?
A Two girls.

Q Mr. Ceccolini, you have been subpoenaed before this Grand Jury to testify in connection with certain violations of Federal Law, particularly those laws concerning gambling.

I would like to advise you at this time that you are not a target of the investigation.

Mr. Ceccolini, how are you employed?

• • • •

[40] like that.

Q This is on a part time basis?
A Yes.
Q You stated you were also a correction officer?
A Yes.
Q At what institution?
A Westchester County Jail, Valhalla, New York. I work evenings.
Q Five days a week?
A Five days a week.

Q What time do you generally open up the flower store?
A 9:00 o'clock.
Q And it closes at what time?
A Five o'clock.
Q How many rooms in the flower shop?
A I would say two, three, counting the bathroom.
Q There's a rear room?
A Yes.
Q A cutting room where you cut the flowers and arrange them?
A Keep storage, a small room.
Q Do you know a man by the name of Frank Millo?
A Yes, I do. I don't know him as Frank. I know him as Joseph.
[41] Q Does Mr. Millo come into your flower shop often?
A Yes, he does.
Q For what purpose?
A Well, he comes in the store, I would say, every morning.
Q Every morning?
A Right.
Q At what time?
A Ten o'clock. Between 10:00 and 11:00, I would say.
Q Does he buy flowers every morning at 10:00 o'clock?
A No.
Q Has he ever bought flowers from you?
A Yes, he has.
Q How frequently?
A Not every day.
Q For what purpose does he come into your flower shop at 10:00 o'clock?
A Well,—how should I put it—
Q Would it help you if I said that the purpose for Frank Millo coming into your flower shop is to pick up policy work?
A No.
Q That's not the purpose?
A No, it isn't.

[42] Q What's the purpose?
A I gave him a few bets, I would say probably about three, since I know him. I have known him all his life. I know his family.
Q You bet, you bet with Mr. Millo?
A I have. I would say about three times.
Q Policy bets or horse bets?
A No, numbers.
Q Policy bets?
A Yes.
Q Three times, you said?
A Yes, I would say about three times.
Q No more than three times?
A No. I would think so.
Q In what amounts, do you recall?
A I think a dollar.
Q Did you give the money directly to him when you were making the bets?
A Yes, I did.
Q Does he make a notation on a pad?
A Yes, I think he did.
Q Have you seen that?
A No, but I know that he makes notations. They can't keep it in their head. I haven't seen that.
[43] Q You stated that Mr. Millo comes into your flower shop every day at 10:00 o'clock?
A Between 10:00 and 11:00.
Q And yet you've only placed bets with him yourself at 11:00 on three occasions?
A Right.
Q When were these three occasions?
A I don't remember.
Q In the last month?
A No.
Q Within the last two months?
A I would say before I read about it in the paper, and then I have a fiance that doesn't like me to gamble, so I stopped.
Q Before you read about Mr. Millo's arrest in the newspaper, is that correct?
A Yes.

Q Why else would he come into your flower shop?
A I have known him all my life.
Q He just comes in to talk to you?
A Talk, sure.
Q On a regular basis at 10:00 to 11:00?
A I seen him today three times before I came here, and my store is closed. I happened to be on Beekman Avenue where [44] I live, and I seen him, and I talked to him.
Q He comes back to talk to you every day?
A I would say.
Q You never policy work for him, for example?
A No, I don't.
Q You've never left policy work in an envelope for Mr. Millo?
A No, I haven't.
Q You've never left policy work in an envelope with one of your girls with instructions to give it to Mr. Millo?
A Not that I remember, sir.
Q Directing your attention to December, 1974, have you ever left policy work in an envelope and directed your girl to give it to Mr. Millo?
A To my girlfriend?
Q To a girl working in your store?
A No.
Q Never?
A Not that I remember.
Q Would you remember something like that if you had done it?
A Oh, yes, but I just don't remember, really.
Q Have you ever left policy work on the counter of your store for Mr. Millo?
[45] A No.
Q Have you ever left gambling work on the counter of your store for Mr. Millo?
A No.
Q Have you ever given any type of gambling work in an envelope to Mr. Millo at your store?
A Never happened.
Q That never occurred?
A No.

Q Has Mr. Millo ever given you any gambling slips?
A No.
Q Do you know what Mr. Millo does for a living?
A Well, I know he used to drive a bus at one time.
Q Apart from driving a bus, do you know what he does for a living?
A No, but I read the newspapers.
Q Apart from reading in the newspapers, do you know what Mr. Millo does for a living?
A No, I don't.
Q Obviously you know that he takes bets?
A Right. Well, I mean besides that, I know he picks up bets.
Q I'm interested now in his gambling activities. You know he is a gambler because he's taken some bets from you?
[46] A Yes.
Q Do you know if he has taken any bets from other individuals?
A I can't remember. I never seen him take any from anybody.
Q Have you ever heard from anybody that Mr. Millo takes bets?
A No, not really.
Q Why did you bet with Mr. Millo? I mean, you wouldn't bet with a stranger on the street?
A He is not a stranger.
Q I wouldn't bet with one of my friends unless I knew that he was a gambler.
A I know he was a gambler. I knew he picked up bets.
Q How do you know that?
A From what people talk about. You could go down to North Tarrytown, it's a small town, 4,000 people, and ask anybody, who is taking up numbers, and they'll tell you, I think.
Q Who told you that Mr. Millo was a person to bet with, did Mr. Millo tell you himself?
A No.
Q You must have heard it from somebody?
A I can't remember. Really, I don't know who told me.

[47] Q Did Mr. Millo ever tell you that he takes gambling work?

A Has Mr. Millo ever told me he takes gambling work?

Q That's right, that he is a member of a gambling operation in North Tarrytown?

A No.

Q Has he ever told you that he works in a gambling operation which is headed by Mike Yannicelli?

A No.

Q Do you know Pete Varriano?

A Yes, I do.

Q Do you know if he works for Pete Varriano?

A I have no idea.

Q How do you know Mr. Varriano?

A I used to live on Pocantico Street, and Mr. Varriano lived about two blocks down the street all my life, until I grew up and got married. In fact, years ago he helped my brother.

Q Do you know what Mr. Varriano does for a living?

A Sure, I read the paper.

Q Apart from reading the paper?

A No. I mean, I'm a correction officer. I know he's been in jail. I've never seen him.

Q Did Mr. Millo ever tell you what he did with the [48] policy bets that you made with him?

A No, he hasn't.

Q Do you think he ran the policy operation by himself?

A As far as I know, he does.

Q You don't know that Mr. Millo ever took your policy bets to a bank, what's commonly known as a bank or wire room?

A I have no idea, no.

Q You never asked him what he would do with the bets?

A No. He wouldn't tell me, anyway.

Q You have no inkling of what happened to your policy bets after you placed them with Mr. Millo?

A No.

Q Do you know a man by the name of Hank Bucci?

A Sure. Yes, sir, I do.

Q Do you know that Hank Bucci is working in a gambling operation at this time?

A I read the paper. I know he's been locked up a few time.

Q Apart from reading the papers, have you heard Mr. Bucci is currently operating a gambling operation?

A Have I heard that he is operating a gambling operation?

Q Yes.

A No.

Q Do you know that he is?

[49] A No, I don't.

Q Just apart from what you read in the papers, you have no knowledge that he's working in a gambling operation?

A Right.

Q Do you know what he does for a living?

A I seen a sign, and I seen him standing in front of a garage selling old furniture, and stuff like that, on Beekman Avenue, in another part of town.

Q Has anybody else ever come into your flower shop for the purpose of taking bets from you, apart from Mr. Joe Millo?

A No. Can I say something, sir?

Q What would you like to say?

A I just want to say something. You asked me questions about people knowing about things that other people do. In Tarrytown there's 4,000 people, and you can't breathe unless somebody knows what's going on.

Q You state that you know certain things. The Grand Jury wants to know how you know it.

A Oh, oh, I see.

Q So it doesn't do us any good when you say, I know something and I don't know how I know it.

A I've heard that Mr. Hank Bucci used to be in the business. I heard it in a restaurant. I couldn't tell you [50] who told me, because I can't even remember.

Q Nobody else has come into your flower shop and taken bets from you?

A No.

Q Nobody else has ever picked up policy work from you in your flower shop?
A No.
Q That's never occurred, to your knowledge?
A No, not that I know about.
Q Have you ever taken policy bets yourself?
A No, I haven't.
Q Never?
A No.
MR. ABZUG: Would you please temporarily excuse the witness?
THE FORELADY: Mr. Ceccolini, you are excused, sir.
(Witness leaves Grand Jury room and returns.)

Q Mr. Ceccolini, you stated that Joe Millo comes into your flower shop at ten to eleven every day, right?
A I would say every day. He might miss a day or two, but I would say every day.
Q On the week days or on the week ends as well, every day that it's open?
A Yes, every day that it's open, I would say. I mean, [51] I didn't see him yesterday at all. I don't think I seen him Saturday.
Q But generally he comes in at least—
A He does.
Q —for example, five times a week?
A I would say.
Q Either from ten to eleven or ten to 10:30?
A Yes, I would say.
Q How long has this been going on, years?
A I would say so. I mean, a couple of years, at least.
Q A couple of years this has been going on?
A Yes.
Q And you've stated that the only purpose of those meetings is for him just to say hello?
A Well, to come in and say what's new, talk to me, what's new.
Q He never discusses his gambling business with you?
A No, not at all.

Q And he never picks up policy work from you?
A Not at all.
Q Has he ever come in any other time besides ten to 10:30, into your flower shop?
A I was working the other day for Mother's Day, I think it was 9:00 o'clock, he stopped by and said hello, and asked [52] me if I wanted coffee.
Q Generally it's in that particular time period?
A Right.
Q And this has been going on for two years?
A A year and a half, two years, maybe three years.
Q Don't you find it odd that he is stopping in at particular times?
A No, I don't.
Q Five days a week?
A I can name you fifty other people that come into my store every day for ten minutes.
Q For what purpose?
A To say hello, to talk to me. I'll give you the names. You want them?
Q No, I don't think we are interested in them. Are these individuals passing policy work to you?
A No.
Q Are these individuals passing policy work to you?
A No.
Q Are they placing bets with you?
A No, they are not. And a lot of them are young school kids that come into the place to say hello every noontime, 7, 8, 10 of them.
MR. ABZUG: Thank you, Mr. Ceccolini.
(Witness excused)

EXCERPTS FROM THE TRIAL TRANSCRIPT

• • • •

[17] MR. AURNOU: There is another problem, your Honor, which I was not aware of, and let me say, Judge, I have no objection to trying the whole case, if your Honor deems that appropriate. I simply do not want to be in the position, since you are the trier of both the

facts and the law, of not having brought this to your attention properly. I have no quarrel procedurally with the way you choose to handle it.

Now may I bring a second question or problem to your attention, sir, with regard to the witness Ronald Biro and the witness Lois Hennessey. The material which I received last night, plus the questioning of these witnesses which I personally did, establishes a problem in the area of the law of search and seizure, to wit, it is [18] my understanding that Biro will testify that he went into my client's store, in uniform, at a time when my client was not present, elected himself to go behind the counter, observed an envelope on the cash register with money in it, nothing more than that, your Honor; without anything further, he picks up the envelope, seizes it, searches it, goes into the envelope, examines it. Based upon the contents of the envelope, inquires of Lois Hennessey, and thereby the fruit of the poisoned tree.

So what we have is, (1), the illegal search, and (2), the fruits of the illegal search.

I say that they vitiate the indictment and I say that they may not be allowed to testify before your Honor in the trial in chief because the evidence is illegally obtained.

THE COURT: I really think we ought to try all of these. All that that can show is that up until this point—and frankly they didn't have to give you any of the 3500 material until the witness had testified—and that would probably excuse the making of a motion to suppress prior to trial, because the facts were not shown to you at the time. That is all. That is a legal question, and there is no reason why we can't get in, try the case, raise your objections as we proceed; why go [19] any further.

MR. ABZUG: Just a very brief response, if you will, just with respect to this.

THE COURT: I would like to put the witnesses on the stand and get the case tried, and leave your legal questions if you want, if I feel I need them, and go from there. We are trying this case by statements of counsel, and we don't try cases that way.

MR. ABZUG: I have prepared a memorandum of law, your Honor.

THE COURT: Sometimes they are helpful.

MR. ABZUG: All right, I offer them up to you.

THE COURT: They are very helpful to the Court if they are accurate, to focus on the issues involved, otherwise they are a problem.

MR. ABZUG: Does your Honor not wish to hear argument on—

THE COURT: I don't want to hear argument. Let's proceed. You make your objections as we go along, and treat it as though you had a jury in the box.

MR. ABZUG: Fine.

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[63] [DIRECT EXAMINATION OF LOIS HENNESSEY]

Q Could you tell Judge Gagliardi what happened when you came to work that day?

A I came into the shop at about nine o'clock, and went and got breakfast for Ralph and myself. Came back; we were eating it.

THE COURT: Slow down now.

MR. AURNOU: I can't hear this, Judge. Maybe it is me. I don't know where to go, over there, or what to do. I can't hear it.

THE COURT: If you feel better going over there, you are welcome to do it.

MR. ABZUG: The witness is indicating her throat is slightly congested, Judge. Would a glass of water help you, Miss Hennessey?

THE WITNESS: No.

THE COURT: You came to the store about nine o'clock in the morning, you went and got breakfast for yourself and Mr. Ceccolini?

THE WITNESS: Yes.

THE COURT: All right.

[64] A Mr. Ceccolini had told me he had to go some place that day and to come in at nine. The phone rang. It was a Bronx florist asking for our order. He gave

that order, and then he had to leave. He walked over to the cards, took one, wrote something on it, put it in an envelope and asked me to give it to Popper.

Q What did he do with the envelope, where did he place it in the flower shop, do you recall?

A He placed the envelope on the cash register.

Q Was there anybody else in the shop when the defendant told you to make sure that Popper got the envelope?

A No, there wasn't.

MR. ARMNOU: Objection. If your Honor please, he is paraphrasing the testimony incorrectly.

THE COURT: When Mr. Ceccolini talked with you with respect to Mr. Popper was there anyone else in the store?

THE WITNESS: No.

Q Could you describe what the envelope looked like?

A It was a small rectangular envelope used to put greeting cards on flowers.

Q Did it have a stamp, to your recollection?

A It had the Sleepy Hollow Flower Shop stamp on it.

[65] THE COURT: Didn't have a postage stamp on it?

THE WITNESS: No.

Q Did Mr. Ceccolini tell you what was in it?

A No, he didn't.

Q Did you ask?

A No.

Q What did the defendant do, if anything, after he told you to give the envelope to Popper?

A He gave me a few last minute orders for the store, and he left.

Q At approximately 12:30 that day did anybody come into the Sleepy Hollow Flower Shop?

A Yes.

Q Who was that?

A Patrolman Ronald Biro.

THE COURT: I couldn't hear you.

THE WITNESS: Patrolman Ronald Biro.

Q Who, if you know, was Mr. Biro working for at the time that he entered the shop?

A Village of North Tarrytown.

Q Could you tell Judge Gagliardi what happened after Mr. Biro entered the shop?

A He came in to have a cigarette because he was on the post outside the flower shop. He walked behind [66] the register, sat down, was talking to me. He looked down, he saw the envelope, picked it up, looked in the envelope, put it down, asked me who it was for. I just told him somebody was coming to pick it up.

He finished his cigarette and he left.

Q Did you tell him where you got the envelope?

A I told him that Chick had told me to give this to somebody.

Q Did you say anything to him when he picked up the envelope?

A No.

Q How long would you estimate that he examined the contents?

A A few minutes.

Q Did he say anything to you after he examined the envelope's contents?

A He just asked me who it was for.

Q What did he do with the envelope after he examined the contents?

A Put it back on the register.

Q Was the envelope that Patrolman Biro examined the same envelope that the defendant instructed you to give to Popper?

A Yes, it is.

[67] Q There is no back entrance to the Sleepy Hollow Flower Shop, for example?

A No, there isn't.

Q After Patrolman Biro left the shop, did anybody else come in?

A Yes.

Q Who was that?

A Popper.

Q How soon after Biro left did Popper come into the shop, approximately?

A Approximately an hour later.
Q What time would that be, approximately?
A Oh, anywhere between 1:15 and 1:30.
Q After he came into the shop, what happened?
A He came in and asked me where Chick was. I told him he wasn't there. I gave him the envelope. He said thank you, and he left.
Q Approximately how long was he actually in the Sleepy Hollow Flower Shop before he took the envelope and walked out?
A About a minute to two minutes, at most.
Q Was December 18 the only time that the defendant told you to give an envelope to Mr. Millow?
A No, it wasn't.
[68] Q How many other times approximately were there?
A Two or three other times.
Q Did these two or three other times occur before May 12, 1975?
A Yes.
Q How many times would you say that Joe Millow came into the shop during the 12 months that you worked there?
A Almost daily.
Q Would his daily visits occur at any customary time?
A Anywhere between 10:00 A.M. and 12:00 noon.
Q When the defendant would enter the shop who would usually be there during the time you were there?
A (No response.)
Q I am sorry, when Millow went into the shop, who would be there besides yourself?
A Ralph, Rosemarie Albanese, and a few people that come in and out.
MR. AURNOU: I am sorry, I couldn't hear after Rosemarie Albanese.
THE WITNESS: A few people come in and out, pass the time of day.
Q Was Rosemarie Albanese in the shop with you [69] every day?
A Most of the days.

Q When Millow went into the shop, woud he say anything to Chick?
A Hello, how are you doing, things like that.
Q Did you overhear these conversations?
A Yes.
Q Where were you in the Sleepy Hollow Flower Shop when you overhead these conversations?
A Sitting behind the right counter most of the time.
Q Where would Mr. Millow and Mr. Ceccolini be?
A Mr. Ceccolini would be seated on the left side of the counter, and Mr. Millow would be on the opposite side of the counter.
Q Miss Hennessey, are you familiar with the style of wagering called numbers?
A Yes, I am.
Q Would you tell Judge Gagliardi how betting a number works?
A There are three digit numbers; each number ranges from zero to 9; they are computed daily by number of races run, the horses placed.
Q And could you tell Judge Gagliardi how you became [70] so well-acquainted with this style of betting?
A Just observed.
MR. AURNOU: I couldn't hear that.
THE WITNESS: Just observed and watched.
MR. AURNOU: I still can't hear.
THE COURT: Observed it and watched.
Q Where did you make these observations?
A At the flower shop.
Q During these conversations which you overheard between Ceccolini and Millow were numbers discussed?
A A few times.
Q Well, on how many occasions?
A Are you asking were numbers placed or were they discussed?
Q How many occasions did you hear Mr. Ceccolini and Mr. Millow discuss numbers?
A Amost daily.
THE COURT: Daily?
THE WITNESS: Yes.

Q And to your personal knowledge, did Mr. Ceccolini ever place a numbers wager with Joe Millow at the Sleepy Hollow Flower Shop?

A Yes.

Q And how many times?

[71] A Almost daily.

Q Almost daily for the 12 months that you were there?

A Yes.

Q You personally observed this?

A Yes.

Q Could you describe to Judge Gagliardi how the defendant would play the numbers wager with Millow?

A Pop would come in, they would pass the time of day, and then Ralph would, you know, tell him, what numbers he wanted, Millow would then take out a pad, write down the numbers, and the amount, and Ralph's name, and then stay a few minutes and leave.

Q Where was Mr. Millow standing customarily when he would make these notations?

A In front of the counter.

Q And where would you be?

A Behind the counter.

Q How much, if you know, did Ceccolini bet on the numbers with Millow every day?

A Anywhere between a dollar and three dollars.

Q Would he bet any particular number?

A 101 and 152.

MR. AURNOU: 101 and—

[72] THE WITNESS: 152.

Q What significance if any did the number 101 have for Mr. Ceccolini?

A It is the first three digits of his license plate on his stationwagon.

MR. ABZUG: Your Honor, at this time I would like to read a stipulation concluded between Mr. Aurnou and myself, into the record. "It is hereby stipulated and agreed by and between the United States of America for the Southern District of New York, by Michael Abzug, Special Attorney for the Department of Justice, and the defendant Ralph Ceccolini, by his attorney, Joel Aurnou, that since March 1, 1973, to the present date, Ralph

Ceccolini has owned a 1969 Ford bearing New York license plate number 101TAB."

MR. AURNOU: So stipulated.

However, at the time I agreed to that stipulation, your Honor, there was a second portion to it, namely that the shield that the defendant has—

MR. ABZUG: Objection, your Honor.

MR. AURNOU: —from the Department of Correction.

May I finish my statement?

MR. ABZUG: What is the relevancy? If you want to bring this in, bring it in your own case.

[73] MR. AURNOU: Very well, your Honor.

Q Now besides number 152 and 101, would the defendant bet any other number?

A Once in a while, you know, I'd say, you know, I got a number, do you want to bet it or something?

Q What numbers would you suggest to the defendant?

A 095 or 341.

Q What significance, if any, did 095 and 341 have to you?

A 095 is my mom's good luck number and 341 is the bill I always get when I am in a restaurant.

MR. AURNOU: I am sorry.

THE COURT: You are talking too fast. I think it is much too fast.

MR. AURNOU: I can't hear.

Q 095.

MR. AURNOU: Could the reporter read it?

(Record read.)

Q Did you ever see money change hands between Millow and the defendant?

A Yes, I have.

Q How many times during the 12 months you were there?

A Quite a few.

[74] THE COURT: What is quite a few?

THE WITNESS: Well, depending on, well, Ralph had the money on it; while he placed the bet he'd give it to Poppa then, and if he didn't have it, he'd wait till Saturday.

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[80] Q Did you ever overhear Millow or the man known to you as Millow and Mr. Ceccolini discuss football?

A Yes.

Q Where did you overhear these discussions?

A In the flower shop.

Q When?

A On Saturday mornings.

Q Which Saturday mornings?

A Saturday mornings during football season.

Q Which football seasons?

A Saturdays, the '73, '74 season, '74, '75.

Q In what context were they discussing football?

THE COURT: Describe the conversation that you heard; if you can place the time of it, fine, a specific conversation or what.

THE WITNESS: Poppa would come in about 10:00, and they would talk about teams and how they looked, and who was playing, and what lineups, and they would discuss point spreads.

[81] Q Did you ever personally observe Ceccolini accept a football wager from other individuals at the Sleepy Hollow Flower Shop?

A Yes.

Q How many times did you witness this?

A Almost every Saturday.

MR. AURNOU: Sorry?

THE WITNESS: Almost every Saturday the football season was on.

Q Which football seasons?

A The '73, '74 and '74-'75.

Q Could you describe to Judge Gagliardi how these people would make a football wager with the defendant?

A Well, they would play on the football tickets, and they would come in, ask him for one, he would give it to them, they would circle whatever team they wanted, they would rip off half, keep half as a receipt and give Chick the other half with the amount of money.

Q Could you describe what—

MR. AURNOU: Could I have the last part of that answer read back?

(Answer read.)

Q Could you describe what these football tickets looked like to Judge Gagliardi?

[82] A They are pastel colored, they come in two halves, they are rectangular, and they have the listing of all the college and professional teams that are playing, and beside the favorites there is plus and a point spread, and you circle whatever one you want, what team you think will do it, rip it off and give it to Ralph.

Q How many people would bet with Mr. Ceccolini every Saturday morning during football season, approximately?

A Anywhere between five and ten people.

Q Between five and ten people would bet with Cecolini every Saturday morning during football season for two years?

Q Do you know who some of these people were?

A Myself, my brother, and a few other people.

Q And what, if you know, would Ceccolini do with these five or ten football tickets that he would accept every Saturday?

A He would give them to Popper.

Q Would Popper come into the Sleepy Hollow Flower Shop? Where would he give them to Popper?

A In the shop.

Q On what day?

A On Saturday.

Q Would Popper just come in on Saturday once a day?

[83] A He'd come in twice.

Q And what would the first time be?

A Just to talk about football spread and what not.

Q And the second time?

A He'd pick up the tickets.

Q Would money change hands when the defendant gave these five or ten football wagers to Mr. Millow?

A Yes.

Q Where, if you know, did Mr. Ceccolini keep the football tickets that he deposited every Saturday?

A Most of the time they were underneath the wax paper under the right side counter.

Q Did you ever overhear a man known to you as Popper give Ceccolini a telephone number?
A Yes.
Q Where did this occur?
A At the flower shop.
Q Approximately when?
A It was during the football season.
Q What did Mr. Ceccolini do, if you know, after he received the telephone number from Mr. Millow?
A He went in the back and he dialed a number, and he came back out and he had a sheet of paper with teams and point spreads.
[84] Q How did the teams and point spreads appear on the sheet of paper?
A It was just written, say the Giants are playing Buffalo, say Giants, Buffalo, and there would be a point spread.
Q How many times did you observe Mr. Ceccolini examining point spreads after making one of these telephone calls?
A Whenever he called, I guess.
Q How many times is that?
A Saturdays and Sundays.
Q During when?
A Football season.
Q Were you able to overhear any of these conversations?
A No.
Q Where is the telephone located?
A The telephone he used was the one that was in the back, just in front of the bathroom.
Q How far away from him were you when Mr. Ceccolini would make these calls?
A Say about 15, 20 yards.
Q How long would the call last?
A Few minutes.
[85] Q What tone of vice would Mr. Ceccolini use?
A A low voice.
Q Did there come a time when Millow gave the defendant another telephone number to call?
A Yes.
Q When did this happen?

A It was approximately the same time that all the people were getting busted for gambling.
Q Aside from accepting football wagers every Saturday during two years of football season, did you ever observe the defendant accept any other types of wagers at the Sleepy Hollow Flower Shop?
A Yes.
Q Could you tell Judge Gagliardi what other types of wagers he used to accept?
A He accepted the Kentucky Derby wagers.
Q How would he accept Kentucky Derby wagers?
A People would come in and ask him to play two or three dollars on a horse.
Q When was this?
A The day of the Kentucky Derby.
Q Did Mr. Ceccolini ever accept policy wagers over the telephone?
A I think so.

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[97] [CROSS EXAMINATION OF LOIS HENNESSEY]

Q Now you told us at some point about the layout of the store. As you come into that store, you come, do you not, toward a counter, which, as you said, bisects the store?
A It is bisected is what I said, the counter.
Q What you mean is it runs from one side to the center and from the other side to the center, with a very narrow passage in between that the employees can walk through?
A Right.
Q Would it be fair to say, Lois, that the counter that we have just described separates the public area of the store from the area that the employees use?
A Yes.
Q The cash register, for example, is some distance behind and into the employee area of the store from the counter, is that correct?

[98] MR. ABZUG: Objection to the characterization, some distance behind, your Honor. Let him ask how far.

THE COURT: I will permit it.

A The cash register is seated on a table right behind the left counter.

Q When you say "right behind," what distance are you talking about in feet, Lois?

A It is not in feet. It is practically in inches.

Q How wide is the counter, Lois?

A The counter? I'd say about two to three feet long—wide.

Q Okay. And at the back edge of the counter, say three feet from the public area of the store, is the edge of the cash register which runs another foot and a half, two feet, towards the back of the store, is that correct?

A Yes.

Q And to get to the cash register, you have to go through that narrow opening into the employee area of the store, right?

A Yes.

Q And on December 18, 1974, that is exactly what Patrolman Biro did, is it not?

A Yes.

Q By the way, you told us that when Biro came [99] into the store, the florist shop, Mr. Ceccolini was not there.

A Right.

Q Do you know what time he had left the place?

A It was somewhere between 10:00 and 10:30.

Q Do you know where he went?

A I don't remember.

Q Was he working that day?

A I don't remember.

Q You don't?

A He asked me to come in early because he had to go somewhere and I came in early.

Q You testified about events of that day. Do you remember whether he was there in the afternoon or whether he went to work in the afternoon?

A I believe he returned.

Q And spent the entire balance of the day at the store?

A Yes.

Q So it is your testimony that he wasn't working that day?

A Yes.

Q Some time after Biro came in, he went over to the cash register and picked up an envelope that was there, [100] is that correct?

A He was sitting in the seat next to the register.

Q All right. He went to the seat next to the register and then picked up an envelope which was sitting on the cash register drawer?

A Right.

Q Would you describe that envelope in terms of size and in terms of use. What is it normally used for?

A It is normally used to send out greeting cards with flowers.

Q When you say greeting cards, Lois, do you mean the little card that you send along with a bouquet of flowers that would be maybe three inches by one and half inches?

A Yes.

Q And the envelope is approximately the same size?

A Yes.

Q What color is the envelope?

A White.

Q I think you said on direct testimony it bore an imprint?

A Yes.

Q Would you describe that imprint for his Honor?

A The imprint is Sleepy Hollow Flower Shop, and [101] gives the address of the shop, and it is usually located on the upper left of the envelope.

Q Is that something that was printed on there, or put on by stamp or by hand?

A Stamped.

Q Rubber stamped?

A Yes.

Q And this particular envelope had it on, did it not?

A I am pretty sure it did.

Q What can you tell us about the envelope before Patrolman Biro picked it up?
A It was sitting on the register.
Q Was the gummed side flap open or closed?
A I really don't remember.
Q Was anything protruding from the envelope?
A I wasn't paying that much attention to the envelope. I couldn't tell you.
Q Then is it fair to say that you didn't notice anything protruding from it?
A Yes.
Q Did there come a time when Biro picked up and opened the envelope?
A Yes.
[102] Q You saw him do that?
A Yes.
Q Prior to that time that he actually picked it up and opened the envelope, he said nothing to you about it, correct?
A No.
Q Sorry?
A That's correct, yes.
Q And you saw him as you were there examining the contents of the envelope, right?
A Yes.
Q I mean you actually saw him reach over, open it up and look?
A I wasn't paying that much attention to him because I was reading the paper.
Q He did it while you were reading the paper. After he had done it, it came to your attention that in fact that was what he had done?
A Yes.
Q At that point, as a matter of fact, Lois, what brought it to your attention was that he asked you some questions about it?
A Yes.
Q Isn't that fair?
[103] A Yes.
Q And the questions that he asked you had to do with whose it was, what it was doing there, is that fair?
A Yeah.

Q And you made certain answers to those questions, did you not?
A Yes.
Q You told him, among other things, that it was Mr. Ceccolini's, that it was left there for someone?
A Yes.
Q He didn't ask you who the someone was, did he?
A No.
Q He put the contents back into the envelope, and put the envelope back on the cash register, is that correct?
A That is true.
Q And then he went back out of the store, did he not?
A Yes.
Q By the way, correct me if I am wrong, but that occurred at about half-past 12:00, just after noon, is that correct?
A Yes.
Q And about 1:15 or 1:30, along came the man you described as Popper, Mr. Millow?
[104] A Yes.
Q And at that time you said you gave the envelope to him or he took the envelope, one or the other?
A I gave him the envelope.

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[108] Q Let me ask it now, Lois, how did the police discover that you had information concerning this case?
MR. ABZUG: Objection, your Honor. I believe the Court has already made a ruling.
THE COURT: Have you any knowledge how that happened?
THE WITNESS: No.
Q Let me ask it another way, Lois. Did anybody ever discuss this case or Mr. Ceccolini or the subject of numbers, policies, sports betting or anything else with you from the Police Department prior to the time that Officer Biro questioned you in Mr. Ceccolini's store on December 18?
MR. ABZUG: Objection as to relevancy, your Honor.
THE COURT: When was the first time you were interrogated with respect to what you knew about this matter?

THE WITNESS: I don't have the exact date.
THE COURT: Approximately.
THE WITNESS: Oh, April, somewhere around in there, March, April, '75.
THE COURT: March or April of '75. All right. [109] Next question.
Q By whom were you interrogated at that time?
A Mr. Emory.
Q I am sorry?
A Mr. Emory.
Q The FBI agent sitting here in the courtroom?
A Yes.
Q And did he tell you how he came to inquire of you?
A He—
MR. ABZUG: Objection as to hearsay, your Honor.
THE COURT: No, I will permit it.
A He just appeared at my door one night and asked me if I would answer a few questions for him.
Q Did he ask you questions about the incident of December 18?
A He didn't give any specific date.
Q Did he ask you questions about the incident when Patrolman Biro came into the store?
A He didn't, you know, he just said you were employed there, and asked me a few questions.
MR. AURNOU: I can't hear a word that young lady said.
[110] THE COURT: I can't hear you. We have got some low-flying aircraft here.
MR. AURNOU: Could I ask that that be read back?
THE COURT: You want the question?
MR. AURNOU: I want the answer.

(Record read.)

THE COURT: Is that your answer?
THE WITNESS: Yes.
Q Before I ask you, did he make some notes while he was talking to you, what you were saying to him?
A Yes, he did.
MR. AURNOU: Mr. Abzug, would you be kind enough to furnish me with those?

MR. ABZUG: Your Honor, as I have indicated before—
THE COURT: They also were destroyed when they were incorporated in the file report, is that correct?
MR. AURNOU: I don't have any file report, your Honor, which contains this witness' statements to Agent Emory. That was not turned over to me.
THE COURT: You don't have any written statements from her, do you?
MR. ABZUG: No, your Honor. I do not. Not [111] with respect to the incident that the counsel is interrogating the witness on. As I mentioned before, we turned over all the relevant 3500 material.
MR. AURNOU: Your Honor, I don't understand that representation. If the Government has Agent Emory's material with this young lady's statements in it from that date, I believe I am entitled to it.
THE COURT: Do you have the substance of any conversation on that date?
MR. ABZUG: Your Honor, I believe that the only thing that was discussed between Special Agent Emory and Miss Hennessey—
THE COURT: Do you have any verbatim or substance of any statements with respect to that particular interview?
MR. ABZUG: No, your Honor.
THE COURT: Very well.
Q At any time on that date, did you discuss with Agent Emory how he happened to be interviewing you?
A He said he had—
Q Please speak loudly.
A He said he had gotten information from the North Tarrytown police.
Q And did he tell you that the North Tarrytown police department had given him the information concerning [112] the event that transpired on December 18, 1974?
A He didn't say anything to that effect.
Q He wasn't that specific?
A No, he wasn't.

MR. AURNOU: Your Honor, at this time may I request through the Court that Mr. Abzug furnish me with the date on which that interview that the witness said occurred—

MR. ABZUG: I can check my appointment book in the office.

It is my understanding no official memorandum was made of this, except perhaps with sole exception of Agent Emory's appointment book which is back at the office, which is, of course, not 3500 material.

MR. AURNOU: The problem that I have, your Honor—

THE COURT: Can you give him an approximate time at which that interview was conducted?

MR. EMORY: I would say April.

THE COURT: Is that satisfactory at this time, to be confirmed later?

MR. AURNOU: I would ask that it be testified later because it presents evidence on two points that I have.

THE COURT: It will be testified later.

Q On this particular occasion, I think you told [113] us, Lois, that there was no one in the store except yourself when Officer Biro came in, is that correct?

A That's correct.

Q You also told us there were two or three other times prior to May 12, 1975, when you had received envelopes to give to Mr. Millow?

A Yes.

Q Although you had never looked at the contents of those envelopes, correct?

A Yes.

Q Now, when that happened, on any of those two or three occasions, was there anybody at all in the store?

A I don't think there was.

Q Pardon?

A I don't recall if there was or not.

Q And you said that at some point while you were in the store, Mr. Millow would come in daily between 10:00 and 12:00 o'clock, is that right?

A Yes.

Q Once or more than once?

A It depended on whether Chick was in the store when he came the first time or not.

Q Well, if Chick was there the first time.

A He might stop in on his way to wherever he was [114] going, you know, once in a while, but he would usually just come in once.

Q He would usually just come in once?

A Yes.

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[117] Q You said that you observed almost daily numbers betting, is that correct?

A Yes.

Q Did that occur right into February of 1975?

A Yes.

Q Of course you had talked to Officer Biro as far back as December of 1974, had you not?

A Not dealing with that. I talked to Mr. Biro all the time.

Q Well, did you come down here this morning with him?

A Yes, I did.

Q Did you have lunch with him?

A Yes, I did.

Q Did you talk with him about the case on Saturday?

MR. ABZUG: Objection as to relevancy, your Honor.

THE COURT: I will permit it.

A Saturday?

Q Saturday, right in front of the police station, five o'clock?

[118] A I was waiting for my boy friend

Q I didn't ask you that.

A No, I didn't talk to him about the case.

Q On Saturday at five o'clock?

A All I told him was you came and talked to me; he said okay.

• • • •

[124] Q Miss Hennessey, you told us just before we recessed that when Agent Emory came to your door, he [125] told you that he had gotten your name from the North Tarrytown police, do you recall that?

A Yes.

Q Would you give us, as best you recall, the substance of what he said to you about that subject?

A He just said that he had learned that I was employed by Mr. Ceccolini through the police department. He mentioned no names or anything of that sort.

Q Did you at that time recall the incident with Ron Biro?

A Not really.

Q You completely forgot—

MR. ABZUG: Objection. Argumentative, your Honor.

THE COURT: I will permit it.

THE WITNESS: Excuse me?

THE COURT: It wasn't in your mind at the time?

THE WITNESS: No, I just lost a soft ball game, and that wasn't on my mind.

THE COURT: The answer is no.

Q As you went through his questions and your answers, did the subject of Officer Biro come up?

A No. He just asked me if I remembered anything in December.

[126] Q I can't hear you.

A He just asked me if I had remembered an incident that happened in December.

Q He specifically directed your attention to that month?

A Yes.

Q What did you tell him in answer to that?

A I really don't remember.

Q Is it fair to say that you told him about the same December incident that you told his Honor about this morning.

A Yeah.

Q And of course by the time it got that far, then despite the softball game, you remembered the incident with Officer Biro, fair enough?

A Yes.

Q And having in mind the incident with Officer Biro, you described, just as you did here this morning, to Agent Emory what happened with Officer Biro?

A Yes.

Q Because when he told you that he had gotten your name from the North Tarrytown police department, you knew either that he already had that information or that he could get it from the North Tarrytown police, correct?

[127] A Yes.

Q You mentioned some football pools, do you remember that, on your direct?

A Yes.

Q Is it not a fact that you personally have bet such pools?

A Yes.

Q And you bet them with Mr. Bucci directly, and you bet them with Popper directly, is that correct?

MR. ABZUG: Objection, compound question.

THE COURT: Yes, sustained.

Q Let's take Mr. Bucci first. Is it fair to say that you made bets directly with him?

A No, I gave mine to Ceccolini.

Q Never bet directly with Mr. Bucci?

A No.

Q How about Popper?

A The only time I gave Popper them was when Ceccolini told me to, when he wouldn't be there when Popper would return.

Q Let's take that just for a moment. What time did Ceccolini go to work?

A He generally left at 2:00, but he used to go out to lunch with Rosemarie or he'd go home and change.

• • • •

[139] A Well, the first week of football he placed the bet with Mr. Bucci, and I hit, and it took me a while to get my money, and that is when he had told me that he doesn't like to bet with him or associate with him because you have a hard time getting your money.

Q Keep your vioce up if you can, Lois, please. Now you told us also that there were some football tickets that were kept under the right side counter, is that correct?

A Yes.

Q These were kept where under the right side counter?
A Under the wax paper.
Q Were they visible?
A No.
Q Can you tell us what you mean by the football season?
A Football season?
[140] Q Yes, when does it start, when does it end. Lois?
A Opening day, and to the Superbowl.
Q Would it include, say, December 18?
A Yeah.
Q All right. And on that day did you see Patrolman Biro find any tickets below the counter on the right side?
A He wasn't on that side of the store.
Q The register is on the other side?
A Yes, the register is on the left-hand side.
Q Although he was back behind the counter, you didn't see him discover any of those?
A They are hidden under the wax paper.
Q He didn't look and you didn't show?
A No.
Q Now you have told us that out of all these people that were betting football, baseball, basketball and policy, you recall a Ron Pietrowicz and a Mr. Lynch. We will exclude your brother. Anybody else there?
A Not that I can, you know—I know guys, but I don't know their names.
Q Any other names, Lois?
A I can't remember names. I know Ron because he would come in every day, he used to drop by every day.
[141] He worked with Ralph.
Q He worked with Ralph?
A Yeah.
Q He is a correction officer?
A Yes.
Q This was despite the fact that policy was going on every day, football every weekend, baseball during the season and basketball from time to time, is that correct?

MR. ABZUG: Objection as to form.
THE COURT: Sustained.
Q Let me ask it this way, Lois, didn't you tell us that policy bets were occurring almost every day?
A Yes.
Q Football every weekend?
A Yes.
Q Basketball from time to time?
A Yeah.
Q And baseball during the season?
A I can only tell you baseball for three weeks in June.
Q The time you were there during the season, baseball, what, on a daily basis?
A Ron used to come in every day and leave something to give to Hank.
[142] Q Ron Pietrowicz?
A Yes.
Q With all of this action going on, there is exactly two people whose names you know placing bets?
MR. ABZUG: Asked and answered, your Honor. I object.
THE COURT: Yes, it has been.
Sustained.
Q You were asked what is Popper's real name, do you recall that?
A Yes.
Q How did you find that out?
A I read it in the newspaper, right after he got busted.
Q So the only knowledge you have on that is something you read in the newspaper?
A I knew his last name was Millow when he lived on Cedar Street.
Q As far as his first name or his middle name, that subject you got from the newspaper?
A Yes.
Q In fact the only name you ever heard for him was Joe, other than Popper, isn't that correct?
A Yeah.

[143] MR. AURNOU: May I have just a moment, your Honor, to look at some material.

THE COURT: Yes, certainly.

(Pause.)

Q Let me ask you this. The time Officer Biro came into the store on December 18, he was in uniform, was he not?

A Yes, he was.

Q And I think you told us you are a police science student, is that correct?

A Yes, I am.

Q So you would have a great deal of respect for that uniform, would you not?

A Yes, I do.

Q Did you tell Mr. Ceccolini about the events of that day when they occurred?

A No, I didn't.

Q Did you tell him within the next week?

A No.

Q Is there any particular reason for that?

A Didn't think it was important.

Q Pardon?

A I didn't think it was important at the time.

Q In other words, a uniformed police officer [144] came into the store, examined the envelope, he did tell you what he found inside, did he not?

A No, he did not.

Q And therefore you thought nothing of it, although you knew at the time what Millow was doing?

A Yeah.

Q I mean it is your testimony that throughout this period of time you knew Millow was a gambler?

A Yeah.

Q And you tell us you knew Ceccolini was accepting bets?

A Yeah.

Q And Ceccolini left an envelope for Millow and the cop came in and searched the envelope, and you didn't think it was important enough to tell him, right?

MR. ABZUG: Objection. They weren't her wagers, your Honor.

THE COURT: Sustained. Not for that reason. Sustained. It is argumentative.

MR. AURNOU: I will rephrase it.

Q Ceccolini leaves an envelope for Popper.

MR. ABZUG: Is that a question, your Honor?

Q You have previously had envelopes left by [145] Ceccolini or Popper, correct?

A Uh huh.

Q You believed at the time that you knew Ceccolini was involved in gambling, did you not?

A Yes.

Q And that the gambling was going on with Mr. Millow or Popper, yes?

A Yes.

Q And the police officer came, and looked in the envelope which Ceccolini had left for Popper, correct?

A Yes.

Q And he asked you what it was, and what it was doing there, correct?

A Yes.

Q And you answered his question, correct?

A Yes.

Q And you didn't think it was important enough to tell your boss about it?

A No.

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[153] [REDIRECT EXAMINATION OF LOIS HENNESSEY]

Q You mentioned on December 18, 1974—I direct your attention to that date. When did Ceccolini return to the flower shop? You mentioned he returned that day. Do you recall?

A I believe it was about 3:30.

Q In any event, it was after the pass had been made of the envelope, is that correct?

A Yes.

Q Directing your attention to the number of times that Ceccolini gave you an envelope to give to Millow,

after he gave you the envelope, did he ever ask for it back?

A No.

Q In April of 1975, do you remember when that was approximately when Mr. Emory came in and spoke to you?

A Yes.

Q And that was at your house, right?

A Yes.

Q And that was in the presence of your mother, [154] is that correct?

A My mother and two sisters.

Q How long did that conversation last?

A About 15, 20 minutes.

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[165] [DIRECT EXAMINATION OF ROSEMARIE ALBANESE]

Q Do you recall testifying before the grand jury on October 6?

THE COURT: Substantially every time that you were there that you saw him there?

THE WITNESS: Yes, I would say so.

MR. ABZUG: Thank you, your Honor.

THE COURT: She said she couldn't say for sure every time, but she has stated substantially every time. We don't need to go into that any further.

Q Was the defendant in the flower shop when Millow would be in the flower shop?

A Yes.

Q Did you ever observe them engage in conversation?

A Sure.

Q Did you overhear all of their conversations?

A No.

Q Did you see, were you in Mr. Ceccolini's presence and Mr. Millow's presence during the entire time, every time they were in the flower shop?

A No.

Q Directing your attention to May of 1975, do you remember the defendant receiving a subpoena?

[166] A I wasn't present when he received it.

Q Do you remember the defendant speaking to you about receiving a grand jury subpoena in May of '75?

A Yes, sir.

Q Now directing your attention to the week immediately preceding the defendant's grand jury appearance, did you have a discussion with Joe Millow?

A Are you speaking about the—

MR. AURNOU: I am going to object to this entire line of questioning. Apparently what my brother is trying to do is to introduce against my client the statement somebody else made. I don't see any way, there is no conspiracy count here.

THE COURT: What is the question?

MR. ABZUG: The question is, now directing your attention to the week immediately preceding defendant's grand jury appearance, did you have a discussion with Joe Millow.

MR. AURNOU: The defendant is not shown to be present, and even assume he was—

THE COURT: She can answer just yes or no.

THE WITNESS: What was the question? I am sorry.

THE COURT: A week before Mr. Ceccolini appeared before the grand jury, did you have a discussion with Mr. [167] Millow?

A Yes, sir.

Q And where did that discussion take place?

A In the flower shop.

Q Approximately what time?

A It wasn't a week before. It was approximately three days before.

Q Approximately what time did this discussion three days before his grand jury appearance occur?

A I would say around eight o'clock at night.

Q Who besides yourself and Mr. Millow was present?

A As in my grand jury testimony, I was not aware that anyone else was present. You said is it possible that Kathie Kosilla was present. I said it was possible. You said—

MR. ABZUG: Excuse me. Your Honor, I ask this Court to strike that as unresponsive.

THE COURT: Do you have any recollection whether anybody else was present?

THE WITNESS: I have no recollection whatsoever.

Q So the only people that were present at that meeting were yourself and Mr. Millow, is that correct?

A No, Mr. Ceccolini.

Q That was my question. Thank you. Now, did Mr. [168] Millow say anything to Mr. Ceccolini?

A Yes.

Q Could you tell the Court what Mr. Millow said to Mr. Ceccolini?

MR. AURNOU: I make the same objection, your Honor.

THE COURT: No, the defendant is present; if the defendant is present, I will take it subject to striking it. The defendant being present, you may answer.

A Mr. Millow walked into the flower shop and said to Mr. Ceccolini, "You are going downtown Monday to see the big boys," something to that effect, "and whatever they ask you, just tell them you don't remember, because if you don't remember, that is not lying." And I at this point said to Mr.—

Q The question now was what did Mr. Millow say to Mr. Ceccolini.

MR. AURNOU: I renew my motions, your Honor.

THE COURT: No. Go ahead.

Q Did Mr. Ceccolini say anything to Mr. Millow?

A No, I did.

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[172] Q And during those two months, did Lois Hennessey work at the Sleepy Hollow Flower Shop, of your own personal knowledge?

A No, she did not.

Q You said that while you worked at the flower shop you took phone calls?

A Yes.

Q Did you ever take any phone calls or have anybody who called the store talk to you about gambling?

A Never.

Q Did you ever see either anything that you recognized as gambling materials or moneys connected therewith change hands in your presence in the Sleepy Hollow Flower Shop?

MR. ABZUG: Objection, your Honor. Improper foundation.

THE COURT: No. I will permit it.

Q Let me ask you this way, Rosemarie. If you saw a football ticket, would you know what it was?

A Now I would.

Q All right. Did you ever seen one such in the Sleepy Hollow Flower Shop?

[173] A No.

Q Did you ever hear anyone in the Sleepy Hollow Flower Shop talk about betting?

A No.

Q Did you ever see Joe Millow accept any kind of money from Mr. Ceccolini at any time that you were in the store?

A No.

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[184] [DIRECT EXAMINATION OF RONALD BIRO]

Q Directing your attention to December 18, 1974, did you have occasion to enter the Sleepy Hollow Flower Shop that day?

A Yes, sir, I did.

Q Where is the Sleepy Hollow Flower Shop located?

A It is located at 52 Beekman Avenue.

Q Approximately what time did you enter the [185] Sleepy Hollow Flower shop?

A Between 12:30 and 1:00 P.M.

Q Who if anyone was present?

A Lois Hennessey was in the store.

Q Could you tell the Court what occurred after you entered the shop?

A Yes, sir. As I walked into the store, I said hello to Lois, and I walked to the back of the store, and I lit up a cigarette and I was talking to Lois, and sitting

on the top of a cash register drawer was an envelope with some money sticking out of it, and I picked the envelope up and I looked at the contents.

Q Could you describe the envelope generally to the Court, please?

A Yes, sir. It was a small white envelope with some paper and some money inside of it.

Q How long did you examine the contents of the envelope?

A Couple of minutes.

Q Did Lois Hennessey say anything to you either immediately before or during your examination of the envelope's contents?

A No, sir.

Q What did you do with the envelope after you [186] examined its contents?

A I asked Lois who the envelope belonged to.

Q And what did she respond?

A She said it belonged—

MR. AURNOU: Your Honor, at this point I think it would be appropriate for me to renew my objection based on the testimony you have previously received from the witness Lois Hennessey, and based on the testimony you are presently receiving from this witness, I believe that this is clearly inadmissible.

THE COURT: Let me suggest this, Mr. Aurnou: I will take it, I suspect, as an improper seizure, but I will take it.

MR. AURNOU: If your Honor is saying you will reserve ruling on my objection until you have heard it all, I would like the record to reflect I have no objection to that procedure.

THE COURT: That is what I intend to do.

MR. AURNOU: I just was in a position, your Honor, where I did not want it to appear I was waiving that objection.

THE COURT: I understand. You are not waiving it.

Proceed. You will have an opportunity to [187] argue it.

MR. ABZUG: I would appreciate that.

THE COURT: You will have an opportunity. I am taking it now. It is my opinion at this point—I will let you argue it.

BY MR. ABZUG:

Q After you replaced the contents of the envelope into the envelope, what if anything did you say to Lois Hennessey?

A I asked Lois who it belonged to.

Q And did she say anything to you?

A Yes, sir, she did.

Q What did she say?

A She said it belonged to Ralph—

MR. AURNOU: I have no right to a continuing objection, so may the record simply reflect that all of the testimony here on in is objected to by me?

THE COURT: I think you have made your objections to the fact that you don't believe that any of this testimony with respect to the search itself or what was found in the search is admissible, and you have an objection.

MR. AURNOU: Also on the further ground that my client would not be bound by the statement made out of his presence by Lois Hennessey.

[188] THE COURT: All right. She has already testified on direct as to what she had to say.

MR. ABZUG: Not only that but—

THE COURT: Please, no sense in arguing.

Q What did Miss Hennessey say to you?

A She said that the envelope belonged to Ralph and that somebody was coming in to pick it up.

Q After she said that, what did you do with the envelope?

A I put it back on top of the cash register and I left the store.

Q Based on your professional opinion and training, were you able to form an opinion,—well, describe first of all to the Court what the contents of the envelope contained.

A Three or four white pieces of paper and on the left-hand side were three digit numbers, and some of the numbers had a small bracket with either a one or a two or a three after it, and one of them had a different number like 660 or 307 on it.

Q Did the envelope contain anything else other than these slips of paper?

A Yes, sir, that contained money, paper currency.

Q What denominations?

[189] A Different denominations.

Q Based on your professional opinion and experience and training, were you able to form an opinion as to what the envelope that you examined on December 18 contained?

A Yes, sir.

Q And could you give the Judge that opinion, please?

A Policy plays.

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[199] [CROSS EXAMINATION OF RONALD BIOR]

Q Now, on the particular day you came into the Sleepy Hollow Flower Shop and if I understood the testimony of previous witnesses correctly, the flower shop is bisected or divided by a counter that runs across the length of the store, with an opening in the middle, in front of the [200] display case, is that fair, sir?

A Yes, sir.

Q Would you agree that it is also fair to say that the public area is the distance between the front door and the counters and the working area is the distance behind the counters?

MR. ABZUG: Objection as to form. Public.

MR. AURNOU: I don't think so.

THE COURT: I will permit it.

MR. ABZUG: Conclusion.

THE COURT: You understand the question, don't you?

THE WITNESS: Yes, sir, I do.

Q Is that fair, Ron?

A Yes, sir.

Q You did not remain in the public area as I understand it, you stepped between the two counters and sat down at some point with a cigarette, close to the register?

A Stood behind the counter, yes, sir.

Q So you were in what we might, for lack of a really good word, call a work area?

A Yes, sir.

Q And you noticed that over on the register next to you was a white envelope?

[201] A Yes, sir.

Q I think you said—but you correct me if I am in any way misstating your testimony—that you could observe American paper currency protruding from the envelope?

A Yes, sir.

Q That is all you observed, correct?

A Yes, sir.

Q The envelope had no writing of any kind, no marking on it, no printing, no nothing?

A No, sir.

Q No number, no letter, nothing?

A No, sir.

Q It didn't have a printed mark, it didn't have a handwritten mark, it didn't have a rubber stamp, nothing?

A Nothing.

Q Okay. When you turned it over, there was nothing on the other side?

A No, sir, there wasn't.

Q You picked up this envelope, and by the way, was this a little tiny flower envelope or just plain white envelope?

A Just a small envelope about this big.

MR. AURNOU: Indicating, your Honor, about six inches.

[202] THE COURT: I don't think it is that big.

Q How big would you say, four and a half inches?

A Four and a half, five inches.

MR. AURNOU: May I, your Honor?

THE COURT: Yes.

Q Four and a half inches. And you spent a couple of minutes, I think you said—you understand you are free to correct me if I misspeak at any point—looking at the contents of that envelope. You examined the currency, you saw how many bills there were, what the denominations were, you looked at the papers sufficiently to determine in your own mind what it was you were looking at, is that correct?

A Yes, sir.

Q And that took a couple of minutes, as I understand.

A Yes, sir.

Q All right. And Lois Hennessey, by the way, was sitting on the other side reading a newspaper, is that correct?

A Yes, sir, she was.

Q Then you called Lois' attention to the envelope and asked her particular questions about it. You asked her whose it was?

A Yes, sir.

[203] Q Is that correct?

A That's right.

Q She responded?

A Yes, sir.

Q She told you she was holding it with instructions to give it to someone?

A Yes, sir.

Q Did you ask her who the someone was?

A No, sir, I did not.

Q At that point you simply replaced the envelope on the cash register with all its contents intact?

A Yes, sir.

Q And left the store and went out and did school crossing duty or whatever it is you were doing?

A School crossing.

Q You weren't on a gambling investigation?

A No, sir, I was not.

Q And you didn't let this incident in any way deter you from the school crossings?

A No, sir, I did not.

Q Now there came a time the next day, when you spoke to Detective Spota?

A Detective DeFalco.

Q And Detective DeFalco?

[204] A Yes, sir.

Q About this transaction, did there not?

A I just talked to Detective DeFalco.

Q You did not speak to Detective Spota?

A I don't remember speaking to Spota the next day.

Q Did you convey to him the information concerning the incident of December 18?

A Yes, sir, I did.

Q Were you familiar with the fact that the detectives in North Tarrytown were at that time working with the Federal Bureau of Investigation in a gambling investigation?

A No, sir.

MR. ABZUG: Objection.

THE COURT: The answer is "no, sir."

I suppose it presumes that there is such a thing; the form of the question is bad.

MR. AURNOU: All right.

Q Let me ask you this, did there come a time when you were assigned to work on a gambling investigation with any agents of the Federal Bureau of Investigation?

MR. ABZUG: Objection as to relevancy, your Honor.

MR. AURNOU: Subject to connection, your Honor.

THE COURT: I will take it.

[205] A Yes, sir, there was.

Q You met Agent Emory, did you not?

A Once, sir, yes.

Q And certain other agents?

A Not FBI agents, no, sir.

Q You met some people from the District Attorney's or Sheriff's office?

A Yes, sir.

Q You conducted some wiretap surveillances in which you assisted?

A Yes, sir.

Q You conducted some physical surveillances which you made?

A Yes, sir.

Q And you became aware of the ongoing nature of this investigation?

A Yes, sir.

Q And in the course of meeting Agent Emory and all these other officers from different agencies you became aware that the investigation was both State and Federal?

A Yes, sir.

Q There came a time also when you were questioned or I won't say questioned in the sense of interrogation, but there came a time when somebody brought up again to [206] you the events of the 18th, did there not?

A Yes, sir.

Q As a matter of fact, you were asked to come down with Lois Hennessey, were you not, to Mr. Abzug's office?

A Yes, sir, I was.

Q And you were also asked to put into writing a description of the events of December 18, 1974, is that correct?

A Yes, sir, I was.

Q Now, prior to December 18, 1974, sir, had you ever interrogated Lois Hennessey as to any events occurring in the Sleepy Hollow Flower Shop?

A No, sir.

Q Prior to December 18, 1974, were you in any way aware that she had or was communicating envelopes containing policy plays to Mr. Millow or anyone else?

A No, sir.

Q Would it be fair, Officer, if I said that on December 18, you learned that?

A Yes, sir, it would be.

Q All right. And that was how you first discovered that Lois Hennessey could provide law enforcement officers with this information?

[207] A Yes, sir.

Q She provided it to you as a result of what you found in the envelope and the questions you asked?

A Yes, sir.

Q And you then imparted that to Detective—

A DeFalco.

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[223] [REDIRECT EXAMINATION OF RONALD BIRO]

Q Do you have any personal knowledge as of whether the defendant's flower shop was involved in any Federal investigation prior to December 18, 1975?

A '74?

Q '74.

A No, sir, I have no knowledge.

• • • •

[301] [DIRECT EXAMINATION OF LANCE EMORY]

Q Directing your attention to the year 1973, did you have an opportunity to personally participate in surveillances in Westchester County?

A Yes, I did.

Q Specifically what area of Westchester County?

A Well, specifically originating in the North Tarrytown, Tarrytown area.

[302] MR. AURNOU: Excuse me, your Honor, may I have the date of your question again?

MR. ABZUG: 1973. I am directing his attention to that year.

Perhaps I should interrupt at this point, your Honor. I do want to state for the record that I turned over certain surveillance logs as part of the 3500 material with respect to Special Agent Emory's testimony here today.

MR. AURNOU: The record should reflect you turned them over just a moment ago and they relate to something of which I had no knowledge previously.

MR. ABZUG: In any event, these logs were surveillances on December 6, 1973, December 4, 1973, December 1, 1973, and November 27, 1973, November 19, 1973, August 14, 1973 and July 31, 1973, and they are enumerated, 3505—

MR. AURNOU: 08.

MR. ABZUG: I am sorry, 3508 through 3514.

Q Now where in North Tarrytown did these surveillances take place?

A Well, in various locations, primarily either on Beekman Avenue, which is the main street, or Cortland Street.

[303] Q With respect to your surveillances on Beekman Avenue, did you observe certain individuals in the course of that investigation?

A Yes, I did.

Q Was one of those individuals a man by the name of Joe or Pop Millow?

A Yes.

Q Where did you observe him in the course of your investigations?

A I observed him on Beekman Avenue, speaking with various individuals, and also in the location known as the Sleepy Hollow Flower Shop.

Q With respect to your observations, including the observations made at the Sleepy Hollow Flower Shop and of Joe Millow during the year 1973, in which you personally participated, could you describe to the Court what those surveillances revealed? Are there documents which would refresh your recollection?

A Yes, I made surveillance logs of those observations.

MR. AURNOU: I don't know what the issue is on which these are offered. I just don't see the relevance.

MR. ABZUG: They are quite relevant, I believe, your Honor, to the issue.

[304] THE COURT: I do see it too. Your objection is overruled.

MR. ABZUG: Let the record show I am turning over surveillance logs, copies of which I have turned over as 3500 material.

Q Now directing your attention to these logs, could you begin with the earliest surveillance and proceed forward in time?

A Yes, sir. The earliest surveillance indicated in surveillance logs I have here is that of July 31, 1973, and it is a physical surveillance of the Sleepy Hollow

Flower Shop in the area on the street adjacent to it. In this particular surveillance, July 31, numerous individuals were observed to enter and leave the flower shop. No one was noted leaving the flower shop with any flowers. Surveillance was instituted at 10:34 and concluded at 12:15 P.M.

Q Directing your attention to the next surveillance, on what date did that occur, sir?

A August 14, 1973.

Q Could you describe to the Court what that surveillance revealed?

A Well, primarily the same as the previously described surveillance in that there were people entering [305] the flower shop and none that seemed to be engaged in the business of buying flowers.

Q Approximately from what period of time to what period of time was this surveillance made?

A This is from 11:05 in the morning to 11:27.

Q Directing your attention to the next surveillance, when did that occur in time?

A On November 19, 1973.

Q Could you describe what that surveillance revealed?

A On the 19th, I observed an individual known to me as Joseph Popper, whose true last name, Joseph Millow, was made known to me later, enter the Sleepy Hollow Flower Shop at 11:45 A.M.

Q What time did he leave?

A He left 11:47.

Q Two minutes later. And when did the next surveillance occur?

A The next surveillance was November 27, 1973.

Q What did that surveillance reveal?

A Individual entering and leaving the flower shop. Joseph Millow was seen to—let's see—was seen in the area of the flower shop. I don't think the log here indicates that I observed him entering.

[306] Q What time was he observed in the immediate vicinity of the Sleepy Hollow Flower Shop?

MR. AURNOU: Objection, your Honor, he didn't say in the immediate vicinity.

THE COURT: Yes.

MR. AURNOU: The log shows—
THE COURT: Sustained.
Q At what time was this observation of Joe Millow made?
A Around the first time I noted was 12:05 P.M.
Q When was the next surveillance made?
A On December 1, 1973.
Q Could you describe to the Court the times of the surveillance and what they revealed?
A At 11:55 A.M. Joseph Millow was observed leaving the North Tarrytown—I am sorry—post office and enter the Sleepy Hollow Flower Shop. He was out in, at 11:59 A.M.
Q That is four minutes later, is that correct?
A Yes, sir.
Q What did he do after he left the flower shop?
A Then he proceeded down Beekman Avenue into a store known to me as Malandrino's.
Q How long did he stay there?
[307] A He was in Malandrino's at 11:59 and out of Malandrino's at 12:06 P.M.
Q Now, directing your attention to the next surveillance when did that occur?
A December 4, 1973.
Q Could you describe to the Court what your surveillances then indicated?
A Surveillance on that day indicated that Joseph Millow entered the Sleepy Hollow Flower Shop at 11:37 and he was out of the flower shop walking in a westerly direction at 11:38.
Q Were there any other individuals observed enter the Sleepy Hollow Flower Shop?
A Yes.
Q Do you recall whether that individual bought any flowers?
A It would have been indicated on my log, sir.
MR. AURNOU: Objection to what would have been indicated, your Honor. It either shows or he recalls.
Q Does it indicate that the individual bought flowers?
A It does not indicate any flowers were taken from the flower shop.

Q Directing your attention to December 6—
[308] MR. AURNOU: I am going to move to strike that unless there is some testimony as to who this individual is.
THE COURT: I will permit it.
Q Directing your attention to the next surveillance, on what date did that occur?
A On December 6, 1973.
Q What did you observe in that surveillance?
A On that occasion also a surveillance of the Sleepy Hollow Flower Shop and the immediate area and I did observe Joseph Millow come out of the Sleepy Hollow Flower Shop at 10:45 A.M.

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[314] Q Now, was December 6, 1973, the last surveillance which you personally conducted in the immediate vicinity of the Sleepy Hollow Flower Shop?
A Of this nature, yes, sir.
[315] Q Could you tell the Court why you stopped the surveillance?
MR. AURNOU: I object to the form of the question.
THE COURT: Sustained.
Q Let me ask you this: In your professional opinion, based on the experience that you had in gambling investigations and specifically with the observations and surveillance photographs that you have made on these 70 occasions spanning approximately six months, did you come to any conclusion as to what the Sleepy Hollow Flower Shop was being used for?
MR. AURNOU: Objection, your Honor. He is asking him now for a state of mind he has had some time in the past.
THE COURT: I will permit it.
A Yes, sir.
Q What was that conclusion?
A From our observations we determined that the Sleepy Hollow Flower Shop appeared to be to us either a drop stop for policy or a pickup spot policy.
Q Could you explain to the Court what a drop stop or a pickup spot is?

A A drop spot could either be a place, a normal [316] betting place for any citizen to walk in and place a numbers bet, or it could be a location where gambling work is dropped to be picked up by another responsible person in the gambling operation, or it could be both of those descriptions.

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[339] Q Special Agent Emory, showing you what has been marked for identification as Government's Exhibit 13, have you seen that document before?

A Yes, sir, I have.

Q Showing you what's been marked for identification as Government's Exhibit 12, have you listened to a portion of tape contained in that exhibit box?

A Yes, sir.

Q And could you tell the Court, without specifying the contents of the conversation, who the conversation was between in Government's Exhibit 12?

A The conversation was between two individuals, one being Joseph Millow and one being Ralph Ceccolini.

Q And based upon your review of Government's Exhibit 12 for identification and Government's Exhibit 13 for identification, have you been able to form an opinion as to the subject matter discussed in the conversation [340] represented by that transcript and recorded on that tape?

A Yes, I have.

Q And could you tell the Court what that opinion was.

A In listening to the remarks made during this conversation, it's my opinion that the conversation is concerning some sort of gambling activity.

Q Between the two individuals?

A Yes.

Q And what is that opinion based upon, sir?

A The language used in the conversation in regard to money.

Q And could you be a little more specific, which particular language you are referring to?

A Well, language such as in the transcript reads: "Millow", at one point here, "Ah, you're figuring much higher."

And the word "figure" normally is used primarily in gambling lingo or gambling vernacular. You find it quite often.

Q What does it represent traditionally?

A Figure means, uses a total loss or win, in regard to a complete operation or to an individual bettor.

Q Any other portions of Government's Exhibit 12 [341] upon which you base your opinion that it pertains to gambling?

A Further down, in the same conversation:

"Millow: What do you figure?

"Mr. Ceccolini: Well, I don't know, when I get the figure I show it to you, I may be, I got it day for day. You don't have it day for day, huh?"

"Day for day" is also significant due to the fact that most gambling operations, or activities, are daily operations, and depending upon daily income and receipts, pays and collects.

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[360] [CROSS EXAMINATION OF A. LANCE EMORY]

And did there come a time when you became aware of an incident of December 18, 1974?

A Yes, sir.

Q Did you become aware of it for the first time as a result of an oral or a written communication?

A Oral, sir.

Q Who was the person who orally communicated it to you?

A I have tried to recall. It was either Detective Spota or Detective DeFalco, and I don't honestly recall which one.

Q Excepting that, can you recall the location where the communication occurred, sir?

A No, sir, I cannot. I'm sorry. I don't recall where it was.

Q Do you recall sir whether you made any record at that time concerning that communication?

A I did not make any record of it.

Q So that there is nothing from which I could ask you fairly to refresh your recollection as to that?

A No, sir.

[361] Q Did there come a time when you pursued that information?

A Yes, sir.

Q Before we go to that, officer, agent, excuse me, would you be kind enough to tell Judge Gagliardi, as best you recall, the general substance of what Detective Sergeant Spota or Detective DeFalco communicated to you about the incident of December 18?

A As I recall it, I recall hearing that Patrolman Biro had been in the flower shop, and I don't think I was given a date, because I think I would have made a record of it, I would have made a record of it, was in the flower shop, Sleepy Hollow, and while he was there he saw an envelope containing policy or gambling records. I'm not sure he said policy.

But that is just about the gist of it as far as I recall.

Q First of all, did they tell you the circumstances under which he came to see the content of the envelope?

A No.

Q So there was nothing to indicate to you in any way, no one communicated to you the thought that the search might have been an illegal one?

[362] A Under my understanding, I wasn't aware of what was told to me, I wasn't aware of a search. I think, I can recall that he saw the gambling records and an envelope, and I think accounts was mentioned.

Q A what?

A Accounts.

Q I misunderstood your word and I apologize. Nobody said to you the Bureau may have been searching illegally or even brought the question up when they gave you the information, did they?

A No, sir.

Q So you assume that what you were getting was simply an observation that a police officer had made legally, fair?

A That it was a general observation, which from what I knew would be legal.

Q At that same time, did they indicate to you that when he made the observation, there had been anyone present?

A I can only say that I think that, whichever one of the two detectives told me, said there was a girl in the shop, but I'm sure her name was never mentioned to me.

Q And you later found out who that girl was?

A Yes.

Q Let me see if I can reword it. If I state it [363] unfairly, you know that you have the right to correct me.

Would it be fair to say that you did not at that moment pursue whatever investigation you were engaged in to the point where you went immediately to locate and see this young lady, but that you left it for later follow-up; is that fair?

A That is fair.

Q Let me put it this way, as a conscientious, and I'm not being at all facetious or sarcastic, as a conscientious investigator, it was your duty and in fact you did follow up on this intelligence information which had been provided to you by the North Tarrytown police, is that fair?

A That's correct.

Q I couldn't hear you.

A That's correct.

Q And in time, and I realize it may be hard for you to fix a date; if you can, I'm sure Judge Gagliardi would appreciate it; so would I.

You did actually follow up this information, you did locate, and I believe you said interview Lois Hennessey?

A No, I don't think I said "interview."

Q Okay, I appreciate the correction.

You did locate and subpoena Lois Hennessey, is [364] that correct?

A That's right, sir.

Q And that as you said earlier, was a follow-up of the information which originally came from Patrolman Biro through the North Tarrytown Police Department?

A For that follow-up and for other reasons that I felt she would be knowledgeable of, outside of that incident of December 18.

Q Did I ask you that?

A No, sir.

MR. AURNOU: I move to strike as not responsive, your Honor.

THE COURT: Yes, strike it, the last part of it.

Q You have testified a great many times before.

THE COURT: We don't need to go into that.

MR. AURNOU: I apologize.

Q Now, Sergeant, when you caused Lois Hennessey to be subpoenaed or when you had occasion to subpoena her, you provided my friend and adversary, Mr. Abzug, with a summary of what you knew, did you not?

A Not on the initial contact. When I interviewed her, after the initial contact, I provided one.

Q That is what I'm trying to get at. You are [365] telling me that the initial contact did not involve an interview.

A No, it did not.

Q What was it, just a matter of subpoenaing her?

A A matter of subpoenaing her and getting some information regarding her person, which I could contact her if I needed to talk to.

Q You mean a telephone number and a person to call?

A That and her time schedule since she was a student.

Q There came a time when you in fact interviewed her?

A Yes, sir.

Q You followed up on this information from North Tarrytown, we have established, have we not?

A There came a time I interviewed her, right.

Q And at that time you did, and again, I'm just saying as a conscientious investigator, doing your job, pursue with her through your techniques of investigation or questions, the subject matter of what had transpired in Mr. Ceccolini's store relative to that envelope on December the 18th, 1974, did you not?

A I think in the subsequent interview I did not [366] ask her any questions regarding that incident, if I'm not mistaken. I'd have to have the actual 302 to refresh my memory.

Q May I see it, please?

MR. ABZUG: I believe it's irrelevant at this point, your Honor.

MR. AURNOU: I can't imagine what could be more relevant.

THE COURT: He said it would refresh his recollection if he looked at it.

A Of that interview. I also stated I don't think there is anything in that particular interview. I didn't ask her any questions regarding the event of December 18.

THE COURT: That form would help you find out whether or not you did, isn't that correct?

THE WITNESS: Yes, sir.

THE COURT: All right. Show it to the witness.

MR. AURNOU: May we have it marked for identification.

THE COURT: Yes, it may be marked for identification.

(Government's Exhibit 17 marked for identification.)

(Handed to the witness.)

[367] Q Have you read that and refreshed your recollection from it?

A Yes, sir.

MR. AURNOU: May I examine it, your Honor.

THE COURT: What's the question? First the question.

MR. AURNOU: The question, your Honor, was has he refreshed his recollection from it and the witness said yes.

THE COURT: With your recollection refreshed, can you tell us?

THE WITNESS: Yes, sir.

THE COURT: What is your answer.

THE WITNESS: There is nothing in my interview report of that day that has anything to do with December 18, 1974.

Q What date is that interview report, sir?
A The date of this interview? June 26, '75, sir.
Q June 26, '75.
Did you prepare any earlier report relative to Lois Hennessey?
A No, sir.
Q And did there come a time when you subsequently interviewed her and did, in fact, question her about the [368] events from which you furnished that information to Mr. Abzug?
A I'm sorry, I don't really understand your question.
Q I will rephrase it.
Let me withdraw it because there is something else I'd like to ask you.
Are you telling us now, I just want to be sure I'm eliminating this, I'm not making any accusation, are you telling us now that when you interviewed this witness in June of this year, you were not aware of the incident the previous December?
A Oh, no. No, sir.
Q So if you knew of the incident at that time, is it fair to suggest that the only reason you didn't ask her about it was because you knew by then that the search was illegal?
A Absolutely not.
Q All right.
Did there come a time when you did ask her about it?
A Not that I can recall, sir.
Q You never spoke to Lois Hennessey about the incident of December 18?
[369] A If you like for me to—
Q Just answer my question.
A The only thing I ever mentioned to Lois Hennessey was in the initial contact, that I thought she could be of assistance to the Government, and that we were looking for her assistance regarding a gambling matter at the flower shop, and if you construe that to mean the incident of December 18, then that would be the only instance.
Q It was the only specific incident of which you had knowledge when you spoke with her at that time, was it not?

A Only specific incident regarding the flower shop?
Q Of which she was present at.
A At that time, yes sir. That's right.
Q I mean we understand each other?
A That's right.
Q All three components and the only one that fits Lois, that you had information of at the time you contacted her, was that one.
In other words, there may have been other incidents that you for some reason were interested in but you had no way of knowing then that Lois had knowledge of, correct?
A That's right.
[370] Q And as a matter of fact, it's also correct to say, is it not Agent Emory, that you did not interview everybody who has worked in that store?
A No, sir.
Q I'm sorry.
A I did not interview everyone in the store, that's right.
Q I apologize, but sometimes we get answers like that and we can't tell whether the answer means yes or no.
I just wanted to make sure we had it.
A That's right.
Q Did there come a time, to your knowledge, when the young lady, Miss Hennessey was in fact questioned by some representative of the Federal Government about the events of December 18, 1974?
A I was under the impression that she was to speak of any and all gambling activities at the flower shop when she appeared before the Federal Grand Jury.
Q So what you are telling me is that prior to the time she came down to see Mr. Abzug she had never been asked about those events?
A I think that's correct, sir, by a Federal—excuse me.
[371] Q By a Federal Agent, of course?
A By a Federal Agent.
Q Yes, I appreciate that. Officer, Agent, I'm sorry, I mean no offense by that.

Agent, I would like you to understand that it's my recollection, just my recollection, that when Miss Hennessey testified here, she stated—

MR. ABZUG: Objection.

MR. AURNOU: May I finish the question, your Honor.

THE COURT: Yes, you may.

Q She stated under oath that on the very first occasion when she was subpoenaed, she was asked about the incident of December 18.

Now, with that in mind, would you reflect upon it a moment and see if it refreshes your recollection as to the conversation you had with her at the time that you had originally subpoenaed her. Just think about it for a second.

A I can tell you very quickly that on that occasion—I'd like to explain the actual contact with her.

Q I didn't ask you that, sir.

A Well, then, on that occasion, I absolutely did not discuss the incident of December 18 with her.

[372] Q All right.

And you are telling us that on that occasion you simply made arrangements to be able to contact her in the future?

A That's right. And asked her of her willingness.

Q The next time you spoke with her at all was to arrange for her to actually come down to see Mr. Abzug, is that correct?

A No, sir, I think she was notified, I'm not sure, but I think she was notified by telephone. I only spoke with her in person, as I can recall, twice.

Q Twice.

A Right.

Q Now, the first time you have told us about.

A Right.

Q I think. When was the second time?

A The second time is June 26, '75.

Q October. Where is that in time with Miss Hennessey's Grand Jury appearance, if you know?

A I'm not sure what date she testified.

Q Well now, if I told you that the Grand Jury testimony of Lois Hennessey indicates that it occurred on May 19, 1975, would that refresh your recollection, Agent, as to whether or not you spoke with Miss Hennessey at all [373] prior to her Grand Jury testimony, and subsequent to ascertaining her phone number?

A As I recall, I can't exactly remember for sure, but I think, if I recall correctly, I may have accompanied, brought her down to the Grand Jury, but I made so many trips, I can't be certain. I could check, there again I could check my appointment book, I think, and normally I record that, but I'd have to do that.

Q Did you make a check of your appointment book as a result of some testimony here yesterday to find out when you first subpoenaed Miss Hennessey?

A Yes, I did.

Q And are you able to tell us now what that date was?

A As best I could put it, put it within a range of three days, I think, approximately April 25 or around that date. Either April 24, 25 or 26, I think.

Q But it would not have been, in any event, later than May 1st.

A Not as best I can ascertain, sir.

Q I'm just trying to get a fair range.

A As best I can ascertain, those are the dates I put it.

MR. AURNOU: May I have Exhibit 2, sir?

[374] Q Let me ask you this.

Prior to interviewing Lois Hennessey or, let's say prior to the time that you first spoke to her in April, o'kay, did you communicate with Mr. Abzug the information concerning the Biro incident that you had received from the North Tarrytown Police Department?

A I think I did, sir.

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[REDIRECT EXAMINATION OF
A. LANCE EMORY]

[386] A We would, in the course of the investigation, would probably try to determine exactly how any policy work or gambling paraphernalia would be passed, if any.

Q And how would that be done, specifically?

A Well, I presume you are asking me a question how would it be done if the observation didn't prove to give us that information.

Q That's correct.

A First of all, I think we would look for someone that might give us that information without compromising the investigation.

Q Then what?

A And if we couldn't have gotten, not get the direct information through that means, there is really not many alternatives left outside of trying to get an employee in the store that would be an agent, acting as a source of information for the Government.

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[389] Q You mentioned that you did not specifically inquire of Lois Hennessey as to the December 18 incident the first time you met her, is that right?

A I did not inquire of her of that incident.

[390] Q Could you describe to the Court the circumstances surrounding that incident, the first contact?

A The first time I contacted Miss Hennessey I went to her home address, her residence, which is 95 Beekman Avenue, a large apartment building, a series of large apartment buildings, and went to her apartment, and she wasn't home; her mother was there, and she told me to stay, that she would be there after a short while. And I stayed approximately, I think, 20 minutes or so, and talked with her. And as I recall, I think one or two of her sisters also showed up at the time, and Lois did subsequently come in and I identified myself, and told her that the United States Government was interested in any information she might provide regarding incidents in the Sleepy Hollow Flower Shop.

Q You didn't limit it specifically to the December 18 incident?

A I don't think I alluded to that incident specifically, no. And I asked her if she would be willing to help the

Government, and she said she would, and she went about telling me about the fact that she was in Police Sciences at Westchester County College, she was interested in police work. In the atmosphere she seemed to be a little nervous, I think a little startled when she came up, and [391] I didn't pursue the interview for that reason.

MR. AURNOU: I object to any characterization what she seemed.

THE COURT: He's describing the interview.

A She was nervous.

MR. AURNOU: I renew my objection.

THE COURT: Overruled.

A I just felt, with the family, it wasn't time to interview her, it would be better if she talked to Mr. Abzug.

MR. AURNOU: I also move to strike, your Honor, what the agent felt.

THE COURT: Yes.

Q How long did you speak with her, approximately.

A Very brief time, because I remember it was pouring outside, and it was late already, I think it was probably late, 8 o'clock or 7:30 or something, somewhere along that time and I had another appointment.

I had waited for approximately 30 minutes.

Q How soon after, as best you can recollect, after you first found out about the December 18 incident, did you contact a representative of the United States Government?

A Pardon me?

[392] Q How much time elapsed after you first heard of the December 18 incident before you contacted an attorney for the Department of Justice, do you recall?

A Regarding that incident?

Q Yes, or regarding Lois Hennessey.

A I'd say it would have to be, strictly conjecture, I'd say it would have to be probably February or maybe even March, but I'm not at all positive.

Q February or March when what happened?

A Pardon me?

Q February or March when what happened, when you first learned of Lois Hennessey—

MR. AURNOU: Judge, that is when he said he contacted her.

THE COURT: Yes.

MR. ABZUG: I'm sorry.

Q Perhaps I'm not making myself clear.

What I'm asking was, how soon after you found out Lois Hennessey's identity, she was brought to your attention, did you bring it to the attention of the Department of Justice?

A I would say it would be probably March, because I didn't know her exact identity for a while.

THE COURT: What led you to Lois Hennessey?

[393] A I think she was identified by either Detective Spota or DeFalco to me as one of the employees of the shop and the girl that had been in the shop the day Patrolman Biro had seen the policy slip.

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[402] Q Special Agent Emory, why did you bring Lois Hennessey to the attention of the Department of Justice?

MR. AURNOU: Objection.

THE COURT: No, I will permit it.

A From what I knew of her, I felt she could aid in the investigation of the gambling matter.

Q And what did you know of her that led you to [403] reach that conclusion?

MR. AURNOU: Asked and answered, your Honor.

THE COURT: No, I will permit it.

A I knew she had been an employee at the Sleepy Hollow Flower Shop; I knew that supposedly as I had been told, she was present the day in which Patrolman Biro saw policy work, and by virtue of her information, being an employee, I felt she could aid us.

Q Was there any information other than the fact that you had discovered that she had been an employee of the Sleepy Hollow Flower Shop and the fact that she had been mentioned as a participant in this December 18 incident which led you to believe, which led you to interview her?

A The mere fact that she was an employee.

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[406] [DIRECT EXAMINATION OF JANE VITAGLIANO]

Q Did there come a time when you worked for Mr. Ceccolini?

A Yes, I worked for him.

Q Where did you work for him?

[407] A Sleepy Hollow Flower Shop on Beekman Avenue, North Tarrytown.

Q What capacity?

What did you do there?

A I'm sorry, I don't have a good vocabulary. I'm an arranger.

Q When did you begin working for Mr. Ceccolini?

A February 3rd, 1975.

Q Do you recall getting a Grand Jury subpoena?

A Yes, I do.

Q Do you recall giving testimony before the Grand Jury?

A Yes, I do.

Q Approximately what month did you get the Grand Jury subpoena?

MR. AURNOU: If your Honor please, I am sure that Mr. Abzug has that subpoena.

THE COURT: All right. You may lead.

Q Let me ask this way, when did you testify before the Grand Jury, do you recall?

A I don't remember.

THE COURT: Tell her.

Q July 21st, 1975, would that be accurate?

A I think it was in July.

• • • •

[410] Q Do you recall being asked how frequently Mr. Millow comes into the Sleep Hollow Flower Shop?

A Now, I do, now that I see this.

Q Do you also recall me asking you, or being asked in the Grand Jury, what the purpose was of Mr. Millow coming into the Sleepy Hollow Flower Shop?

A What the purpose?

Q Why was he coming into the Sleepy Hollow Flower Shop?

A Just say hi, whatever.

Q You recall being asked that before the Grand Jury, though?
A Now that, you know, I see this.
Q Do you recall being asked whether, in the Grand Jury, whether Mr. Millow or Popper, as you knew him, whether you passed any objects to him, such as envelopes or packages or slips of paper, do you recall being asked that?
A Yes, I do.
Q Do you recall being asked in the Grand Jury whether Mr. Ceccolini gave any pieces of paper or packages to Mr. Millow?
A Yes, I do remember that.

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[412] [CROSS EXAMINATION OF JANE VITAGLIANO]

Q During that time, have you seen Mr. Ceccolini involved in any gambling of any kind in any form with any person in any way whatsoever?
A No, I didn't.
Q Have you seen Joe Millow at the store, or Popper, whatever that person is known as?
A Long back, way back.
Q Did he come in from time to time, and you saw him there?
A Yes.
Q On any of those occasions, did you hear any conversation about betting, about horses, about policy, see any money pass, anything like that?
A No, I didn't.

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[420] [REDIRECT EXAMINATION OF JANE VITAGLIANO]

Q Do you know what a policy wager is?
A No, not until I asked Mr. Aurnou.
Q Mr. Aurnou told you what a policy wager was?
A No, I asked him because I keep on hearing it.

Q When did you first ask Mr. Aurnou what a policy wager looked like?
A I wanted to ask him.
THE COURT: When did you first ask him?
THE WITNESS: When? Saturday.
Q This Saturday?
A Yes.
Q It wasn't until this Saturday you knew what a [421] policy wager was, is that correct?
A Right.
Q And you don't know anything about policy wagers, is that correct?
A No, right.
Q You don't know what type of language is used to bet a policy wager, is that right?
A Language?
Q In other words, what people say when they bet a policy wager.
A No.
MR. AURNOU: Your Honor, again, none of this was gone into.
THE COURT: Yes, it was, you asked her whether she heard anything about betting of any kind and so forth.
I think he has the right to go into it now.
Q And you don't know if pieces of paper are used for policy wagers, do you?
A I mean, do you write on them, you need to write something on them?
Q But you don't know whether you have to write on a piece of paper to bet a policy wager or not, right?
A Well, Mr. Aurnou just told me Saturday, I just learnt this Saturday what they are, so obviously you write [422] on them, I guess.
Q But before what, before Mr. Aurnou educated you as to the mystery of policy wagering, you didn't know anything about it before then, is that correct?
A Right.
Q What about sports wagering, do you know what a football ticket looks like?
A No. I'm not a sports freak.

Q Not a sports freak. What about a horse bet, do you know what a horse bet looks like, a horse ticket looks like?
A No.
Q Or what a horse ticket, horse bet would even sound like?
A What?
Q How somebody would bet a horse bet?
A I couldn't tell you.
Q Same thing is true with a sports bet, isn't it?
A Right.
MR. ABZUG: No further questions.
MR. AURNOU: Nor I, your Honor.
THE COURT: Step down.
Next witness.

(Witness excused.)

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[DIRECT EXAMINATION OF
CATHLEEN KOSILLA]

[424] BY MR. ABZUG:

Q It's obviously Miss Kosilla.
A Right.
Q What is your address, please.
A 90 Howard Street, North Tarrytown.
Q Do you know a man by the name of Ralph Ceccolini?
A Yes, I do.
MR. AURNOU: We will concede that she's acquainted with him.
THE COURT: Very well. Identification conceded.
Q Did there come a time when you worked for Mr. Ceccolini?
A Yes.
Q From approximately what periods?
A From about May '73 to, till now, on and off, not steady.

[425] Q For a total of approximately how many months?
A I'm not sure. About six.
Q Six months.
A Yes.
Q Did you work full time or part time?
A Part time.
Q Do you recall testifying before the Grand Jury in July?
A Yes.
Q And do you recall being asked a number of questions in the Grand Jury pertaining to a man known to you as Pop Millow?
A Yes.
Q Do you recall being asked to describe Mr. Millow to the Grand Jury?
A Yes.
Q And do you further recall being asked whether Mr. Millow came into the flower shop in your experience there?
A Yes.
Q And do you recall what your answer was?
A Yes.
Q Approximately how many times a day does he come in?

• • • •

[428] Q Do you remember being asked whether your boss, Mr. Ceccolini, ever passed packages or envelopes to Mr. Millow?
A Yes.

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[CROSS EXAMINATION OF
CATHLEEN KOSILLA]

[429] BY MR. AURNOU:

Q Young lady, in the Grand Jury and today, what is your testimony concerning whether Mr. Ceccolini ever passed any packages, envelopes, money, anything you

recognize to be gambling or anything like that, to Mr. Millow?

A No.

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[DIRECT EXAMINATION OF ROSANNA PESCE]

[437] Q Did there come a time when you were employed at the Sleepy Hollow Flower Shop; do you know Ralph Ceccolini?

A Yes.

Q Do you see him here today?

A Yes.

Q Where is he?

A Right there.

Q Are you indicating the individual on my left?

A Yes.

MR. AURNOU: May the record reflect that she has identified the defendant, your Honor?

THE COURT: Yes.

Q Mrs. Pesce, would you tell the Court please when it was that you were employed at the Sleepy Hollow Flower Shop?

[438] A Well, the exact day, it was September, '74, till like the end of October, the beginning of November.

Q So it would be a period of at least two months, would it not?

A Right.

Q During that period of time was there anyone employed—by the way—excuse me, withdrawn.

How often did you work there, young lady?

A Five days. Monday through Friday.

Q Was it Monday through Friday?

A That's right.

Q During those two months, September and October '74, Monday through Friday, was Lois Hennessey over there, did she work there?

A She'd come in in the afternoon, like; she didn't work there; it was more or less a social call.

Q What period of time was she there during any given afternoon?

A It would be like right before I'd go home.

Q Just before five?

A Yes, right.

Q Would she be there for anything longer than a matter of minutes?

A That is about it, really.

[439] Q Because the store closes at that time, does it not?

A Right at about 5 o'clock.

MR. ABZUG: Objection.

THE COURT: I will permit it.

Q During that period of time that you were there, and the defendant Ralph Ceccolini was there, did you see anything that you could describe to us as gambling, horse betting, football betting, basketball betting, baseball betting, policy or passing of money by Mr. Ceccolini to anybody?

A No, nothing.

Q Not in September and not in October?

A No.

Q And did you know or come to know a man named Millow or Pop or Popper, did you ever see him?

A No.

Q Was there anybody else that was in the store regularly when you were there?

A No, except Rosemarie, she'd be there occasionally, Albanese.

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84

SUPREME COURT OF THE UNITED STATES

No. 76-1151

UNITED STATES, PETITIONER

v.

RALPH CECCOLINI

ORDER ALLOWING CERTIORARI. Filed May 2, 1977

The petition herein for a writ of certiorari to the United States Court of Appeals for the Second Circuit is granted.

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